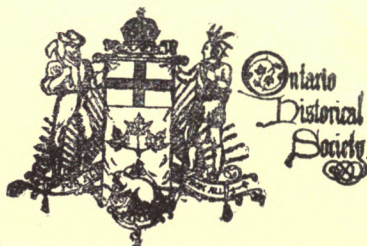




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# Ontario Historical Society

(Incorporated by Act of the Legislature of Ontario,  
April 1st, 1899.)

## HOME OF THE SOCIETY

Normal School Building, St. James Square, Toronto

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# I.

## ANNALS OF AN OLD POST OFFICE ON YONGE STREET (RICHMOND HILL).

BY THE LATE MATTHEW TEEFY

The Post Office at Richmond Hill was established on 6th January, 1836, the postmasters having been successively: 1st, James Sinclair; 2nd, John Wallington, and 3rd, Matthew Teefy. The appointment of Mr. Teefy, the writer, is dated 3rd December, 1850, and he may therefore claim to be the oldest postmaster in the Dominion of Canada.\* At the time of appointment, the Post Office Department of Canada was under the control of Mr. T. A. Stayner, as the deputy of the Postmaster-General of England. The Canadian Government assumed the control of the Department on 6th April, 1851, when the Hon. James Morris was appointed the first Postmaster General of Canada.

At that time the rates of postage, reckoned in shillings and pence, were charged according to distance; for instance, from **Richmond Hill** to

	s.	d.
Toronto . . . . .	4	1/2
Port Hope . . . . .	7	
Kingston . . . . .	9	
Kemptville . . . . .	11	1/2
Montreal . . . . .	1	1 1/2
Napierville . . . . .	1	4
Quebec . . . . .	1	6
Murray Bay . . . . .	1	8
Rimouski . . . . .	1	10 1/2
Cross Point, Gaspé . . . . .	2	0 1/2
Carleton, Gaspé . . . . .	2	3
Gaspé Basin . . . . .	2	5
St. Andrews, N. B. . . . .	2	7 1/2
Halifax, N. S. . . . .	2	9 1/2
Plaister Cove, N. S. . . . .	3	0

Prepayment was optional. If prepaid the letter would be rated in **red ink**, if not prepaid it would be rated in **black**.

On the 6th April, 1851, a uniform rate of three **pence** was adopted by the Canadian Government together with postage **stamps**. The first issue of postage stamps were 1d, 3d, 6d, 7 1/2d, 10d, 12d. If a letter exceeded half an ounce, the rate was doubled. Postage on letters for the

\* This paper was dated August 20th, 1909

United Kingdom, one shilling and four pence; newspapers one penny. Provincial newspapers, half penny each; to and from the United States, one penny. Pamphlets, one penny per ounce.

The money order system was established in 1855.

The decimal mode of postage rates was adopted in 1859.

Neighbouring post offices with which I communicated direct were: Cashel, Gormley, Headford, Maple, Oak Ridges, Victoria Square, Thornhill. All letters for Quebec, Europe, or any place beyond Toronto, I forwarded to Toronto, which office despatched them.

The mail was conveyed from Toronto by Charles Thompson's stage line, running between the city and Holland Landing, arriving at Richmond Hill about noon. There was one mail from Toronto each day, and one from the north.

Thornhill P. O. was established in 1829, and was first named "**Purdy's Mills.**"

**A Political Incident.**—The Hon. William Allan was the first postmaster of the Town of York (now Toronto). He resigned in the year 1828, and was succeeded by his clerk, Mr. James Scott Howard, who was (in 1837) dismissed by Sir F. B. Head on the following charges: **First**, "that he associated too much with 'Reformers' ". **Second**, "that he entertained opinions 'favourable to an elective legislative council.' " **Third**, "that his son read Mackenzie's and O'Grady's newspapers rather than others," and **Fourth**, "that he (Mr. Howard) entertained the "opinion that the Lieutenant-Governor was a mere 'citizen.' " He was succeeded by Mr. Charles Bercey.

In Vol. 37 of Canadian Pamphlets in the Ontario Legislative Library\* may be found: "A Statement of Facts Relative to the Dismissal of James S. Howard, late Postmaster of Toronto." It is from that statement that the above charges are copied. The Home District Council afterwards appointed Mr. Howard County Treasurer, an office which he held until his death.

**Affaire d'amour.**—Written correspondence in newspapers, being contrary to the P. O. Department Regulations, postmasters are instructed to examine such as are suspected, and when found, to send them to the Dead Letter Department. It was a practice frequently indulged in by ladies—old and young. I remember an instance that came under my notice several years ago; a charming young lady posted a newspaper in this office, addressed to a young gentleman in a distant town; on examining it I found it contained written correspondence, winding up with the pressing question as follows: "**When are you going to ask Pa?**" Of course the gentleman did not receive the paper, and did not **pop the question**. She punished him for the apparent neglect, and was married to a gentleman nearer home. I danced at the wedding. I do not think that I could now repeat a similar performance—after my eighty-seventh birthday!

\* This was written before the fire of 1909

In this old post office may be seen, framed, William Lyon Mackenzie's declaration of "Independence," 1837; an address to the free and independent electors of the Counties of Durham, Simcoe, and the East riding of the County of York; another, bearing the date: "York, 14th July, 1800. Signed Wm. Jarvis," and other mementoes of historic interest.

While Sir William Mulock was in charge of the Post Office Department of Canada, the annual deficit, of which there had been a series, became an annual surplus, and this notwithstanding a reduced postage rate and Imperial penny postage.

### Churches at Richmond Hill.

The frame of the first Presbyterian church was raised in the month of July, 1819, when a large gathering of the inhabitants of the village and surrounding country were assisting at "the raising." At noon, on the day of the gathering, the Duke of Richmond with his suite, stopped in the village, then known as "Mount Pleasant," to dine, as he was on his way to Penetanguishene. In honor of the Duke's visit, the inhabitants decided to change the name from Mount Pleasant to that of "Richmond Hill." The church was completed in 1821. The first pastor was the Rev. Mr. Jenkins. The present brick church was erected in 1880.

The first Methodist church was a frame building, erected in 1847; the first person to hold service in it was a Mr. Robert Campbell, a devout local preacher. That building was destroyed by fire on 21st December, 1879. In 1881, the present brick edifice was erected on the corner of Yonge and Centre street.

The first Roman Catholic church was a frame building, erected on Mill street, in 1858; pastor, the Rev. Father McNulty. This building was taken down, after thirty-six years, and the foundation of a brick church was laid on another site on Yonge street, on 17th June, 1894; it was completed and blessed by Archbishop Walsh on 25th November following as "St. Mary's."

The first Anglican congregation assembled for divine service in a public hall, fitted for the purpose; it was served by the Rev. D. Blake, of Thornhill. The building was damaged by fire, but subsequently was repaired and services resumed. In 1870 a brick church was erected on a new site on the west side of Yonge street; pastor, Rev. R. Shanklin.

**Schools.**—The first school house of which there is any record, is "the old log school house," which served its purpose as early as 1810. In 1847, a brick building was erected on the old school site; additions have been erected as circumstances required. A "grammar school" was established in 1852, Mr. W. Clark being the first master.

**Postscript.**—Richmond Hill became dry about three years ago (1906), having passed a By-law in favor of "local option." In earlier times, thirsty folk had a choice of four taverns within the village limits. From Toronto to Holland Landing, a distance of thirty-two miles, in the early fifties, there were over sixty-five such places of entertainment.

## II.

### SOME UNPUBLISHED LETTERS FROM GENERAL BROCK.

#### Introductory Note.

The following letters from Brock have never been printed and seem to have escaped the notice of all his biographers. Those written from Fort George at Niagara were addressed to Major (afterwards Lieut. Colonel) James Green, Military Secretary to Lieut. General Peter Hunter, who was Lieutenant Governor of Upper Canada from 17th of August, 1799, until his death, which took place at Quebec on the 21st of August, 1805. Their interest is mainly personal. Soon after his return from England in the summer of 1806, Brock succeeded to the command of the military forces in Canada, vacated by the departure of Colonel G. Foord Bowes. The letters addressed to the Hon. Thomas Dunn and Lieut. Governor Gore and the instructions to Lieut Colonel Pye were written while exercising this command under the apprehension of imminent hostilities with the United States arising out of the attack on the Chesapeake. They throw considerable light on the military situation at that time and his scheme of defence. The original or official copies of all these documents are preserved in the Dominion Archives at Ottawa.

E. A. CRUIKSHANK.

Calgary, Alberta, 6th Sept., 1909.

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#### From Lt. Col. Brock to Major Green.

Fort George, October 26th, 1803.

Sir:—

You will find enclosed the papers respecting the lots granted to Messrs. W. & J. Crooks and Mr. Forsyth, signed and corrected in the manner directed in your letter.

I found the garrison on my arrival in the same quiet state as when I left it.

The Camden has arrived at Fort Erie by which Lt. Colonel Vincent has announced the desertion of three men of his detachment. These are disagreeable events which in our present situation we must submit to with patience. They were three fine lads, had been six years in the Regiment, and one (Walsh) was Captain Harris's servant. It's really difficult to determine upon whom to place confidence .....

Since writing the above the desertion of two men is reported from Chippawa .....

(C. 513, Pp. 98-9.)

**From Lt. Col. Brock to Major Green.**

Fort George, November 27th, 1803.

Dear Major:—

Mr. Burch sent me the packet of letters with which he was entrusted four or five days later than I was made to expect to get it, however, no opportunity offered for Amherstburg, it did not much signify. Enclosed I return agreeably to your desire the letters addressed to Lt. Colonel Vincent and Captain Clerk.

The Indian express only got here yesterday. I beg you will offer the General my grateful thanks in sanctioning my taking a rope from the store. The net has not been idle, though we cannot boast of much success, and it is so miserably rotten that every haul is sure to create considerable expense. Skinner will have charge of a few white fish but I am told the latter has not yet arrived to perfection.

The Adjutant has been directed to write to Captain Harris to wait on General Hunter with my best respects for his permission to send the drummers to Fort George.

I am sorry beyond expression to state that Captain Dennis was the day before yesterday so very ill as to leave very little chance of his recovery. Besides the great loss which the 49th unquestionably will sustain by his death, it will produce a certain dread on the minds of the ladies and make them particularly apprehensive when they engage in a matrimonial scheme with any individual of the Regiment when they learn that those who made the experiment were left to lament their fate. It seems to be decreed for some unknown sin that an officer of the corps seals his early death at the time he bestows his hand and heart on a female. As you esteem us you will keep this fatal secret locked up in the utmost recess of your heart. Hum!!!

You must see I have nothing official to say after reading this nonsensical digression. Believe me in which I include friend Carry.

(P.S.)—Since writing I have seen your note to Captain Claus to whom I have given the letters for Amherstburg and St. Joseph's to be forwarded by the first opportunity. I shall thank you to forward the enclosed to its address.

(C. 513, Pp. 111-3.)

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**From Lt. Col. Brock to Major Green.**

Fort George, December 22nd, 1803.

Sir:—

I have the honor to inform you that in consequence of receiving intelligence of the arrival at Newark of a young man who was suspected of being a Frenchman, I thought necessary to question him on the subject

and found that he was born at St. Domingo and had come into this country as clerk to Mr. Wilson. This gentleman, it appears, is an Englishman, but has for a long time been employed by the Americans as a commissary or in some such other office. Three of his clerks have come in here in charge of a large assortment of goods with which he proposes to establish a store at this place, Presqu'île, and Detroit. Houmon, of whom I wish to speak, is one of these. His Excellency will naturally believe from what I have said that I entertain too great apprehensions in regard to any mischief this young man would commit, but, notwithstanding, I conceived it my duty to call on the magistrates to summon this foreigner before them in order that his real object for coming to this country might be formally investigated, in the hope some slight restraint might be put to his going at large until he obtained His Excellency's permission.

This was done on my part with a view of convincing all Frenchmen they were liable to interruption in case they presumed to enter the Province without a regular passport. I was, however, greatly disappointed by being told by Messrs. Hamilton, Kerr, and Edwards that no power rested with them to summon a stranger of whatever nation he might belong unless accused of a specific charge in breach of the law. This doctrine, which appears to me so very strange, I think it is my duty to lay before His Excellency that he may know the sentiments of the principal magistrates in regard to a point which I cannot avoid considering at this juncture of the utmost importance.

These gentlemen say that since the expiration of the Alien Bill there is no law which authorizes a magistrate to take cognizance, much less obstruct a Frenchman coming into this country.

I have inadvertently turned this sheet, but as time will not permit my copying it, have the goodness to excuse the accident.

(C. 14, Pp. 130-1.)

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**From Lt. Col. Brock to Major Green.**

Fort George, December 22nd, 1803.

Dear Major:—

The vessels which I informed you had arrived at Fort Erie with an intention of returning this season to Amherstburg have since given up the idea. What renders the disappointment particularly distressing is that the post which left this last Saturday for Amherstburg is gone without taking any of the letters which I had in charge for that post. This was owing to the neglect of the postmaster, Mr. Edwards, who gave no public notice of the day on which the mail would be made up, and who, I suppose, conceived it beneath his dignity to give me the least intimation on the subject. I am very happy in being able to say that the men of this garrison behave with uncommon propriety. I trust in

God they may long continue in the same disposition. The commander of the American vessel, Adams, a blunt, disgusting fellow who commands on Lake Erie, represented to me the other day that three or four soldiers of that nation who were doing duty on board his vessel, having deserted, were immediately received on board the Camden. He therefore wished to know whether it was our intention to countenance such a proceeding.

Without giving him any direct answer to his enquiries, I was so very attentive and polite that he left me seeming highly satisfied. I, however, think proper to mention the circumstance. He observed in the course of conversation that if we could find no method of procuring men for our vessels but by distressing his government, he would be under the necessity of retaliating. The Engineer is getting on pretty fast with the different works which he has to finish during the winter. My letters from England are of an old date; your kind communications were therefore very gratifying. Colonel Sheaffe observed that he had received a letter from the Duke of Northumberland, who was busily employed in training 1500 of his tenantry whom he had armed and clothed at his own expense and given the command of them to his son, the gallant Percy. It is pleasing to hear of the exertions of men of such amazing influence, as their energy must diffuse itself to all around. I now look upon England as placed beyond a possibility of danger.

The Major White, whom you mention in your letter, was, if I mistake not, adjutant of the 32nd. In that case he was an officer esteemed to possess great military merit.

We are at a loss what to allow the field officers who have been deprived of their companies. They are certainly entitled to more than the twenty pounds which the order mentions, as it states they are to be allowed the same as captains, but what that is, it is difficult to decide. I shall thank you, since the charge must be made in this month's pay list, to give me what insight you are able on the subject. Doctor Walsh, it should appear, has taken his abode for the winter at Montreal to the extreme inconvenience of poor Buchanan, who having lately lost his wife, would be happy to go to the assistance of three infant children. I shall try to prevail on the Indians to take charge of a few fish which are now coming in tolerably plentiful. With every sentiment of respect to the General and kind remembrances to Carry, I remain.

(C. 513, Pp. 114-6.)

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**From Lt. Col. Brock to Major Green.**

Fort George, December 31st, 1803.

Sir:—

In consequence of the directions contained in your letter of the 28th instant, the Frenchman, Simon Hamot, and not Houmon, as I first wrote it, has been ordered to quit the province. It now appears from his own

confession that he was born in France, which he denied the first time he was interrogated, but pretended to be a native of St. Domingo.

I beg leave here to acknowledge the receipt of your confidential letter of the same date. I have been prepared for some time to guard against any mischief which the arrival of the person to whom it alludes\* might create, in consequence of being apprized by an American gentleman, that he heard him express a strong wish of viewing the falls of Niagara before he took his departure for Europe. I have adopted such measures as will ensure my receiving the earliest notice of his arrival on the opposite side. I, however, thought it unlikely that he could at this time undertake so long a journey, which made me less anxious to mention the information I had received to you.

(C. 14, P. 132.)

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**From Lt. Col. Brock to Major Green.**

Fort George, January 7th, 1804.

Sir:—

Having been applied to by Walsh, the person who keeps the ferry, respecting a house situated on the reserve to which he pretends to have a claim, I desired him to state his case in writing, which I beg leave to enclose for His Excellency's perusal and determination. Walsh bears the character of an industrious, sober man.

(C. 513, P. 118.)

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**From Lt. Col. Brock to Lt. Col. Green.**

Fort George, April 25, 1804.

My Dear Colonel:—

By the very good management of Mr. Earl, we contrived to reach this place at twelve at night and was made happy in finding everything as it ought to be.

By this day's post I have received two London papers of the 22nd and 27th February. They are of course forwarded for the perusal of my friends at York. The melancholy picture which the Dutch government give of that ill fated country will attract much attention and commiseration. I have been busily employed the whole evening in reading other English papers of a date earlier than those which I send. They contain much interesting matter, but as they belong to a society of gentlemen, I cannot, considering the conditions which were imposed on me, indulge

\* Thomas Barclay, the British Consul at New York, had written to Sir R. S. Milnes and also to Lt.-General Hunter that Jerome Bonaparte was likely to visit Canada.

you with a sight. I, however, send a few extracts. General Meyers is nominated to command in the W. I. Major General Stewart, Governor of Grenada.

Sir James Craig appointed to the 86th Regt.

General John White gets 46th.

Lord Charles Somerset 1st W. I.

Lt. Colonel John Stewart (unattached) succeeds Vesey in the 52nd, who is removed to the Nova Scotia Fencibles vice Roberts deceased.....

The volunteer business does not seem to get on in a very cordial manner. New arts have been introduced which plainly shew that the establishment is not on a proper footing and that people begin to tire.

In my paper, the Albany Gazette, there is an account from France, 29th Feby., which I do not see in any other paper. It states that Moreau, La Fayette, Pichegru, have been arrested when on the eve of dethroning B..... The vessel which brought the intelligence had arrived immediately from Bayonne. I mention the circumstance only because it is possible.

Mr. Crooks has a letter from his brother dated Glasgow, 7th Feby., which says: "The Canadian Fencibles are getting on very slowly. They have scarcely 100 recruits."

The Toronto takes three tables, six forms, thirty-one ash boxes. The remainder intended for York will be shipped by the Speedy which arrived yesterday with a cargo of peas, and as she reached the landing this day, I shall be able to despatch probably the day after to-morrow.

I enclose the necessary estimates for the erection of a house near the light house for the accommodation of the person who is to have charge of it.

I wish to have written more intelligibly but the lateness of the hour has obliged me to hurry. I shall try to send the papers which have occasioned this scrawl by Paxton. It is now past one, therefore adieu.

(C. 726, Pp. 147-9.)

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**From Lt. Col. Brock to Lt. Col. Green.**

Fort George, May 3rd, 1804.

Dear Colonel:—

I have received the letters you entrusted to Captain Nicolls. Every attention will be paid to their contents. I have nothing of moment to report to you. Have the goodness just to mention to General Hunter that one of the men who was supposed to be implicated in the abominable

transaction that was laid by the magistrates before the Attorney General, has been fully freed after a strict investigation, from any knowledge of what was intended by the other wretch. He, therefore, has been released. The guilty will be sent to Kingston by the first opportunity and there discharged agreeably to the permission already given me. He would have been discharged the instant his guilt was established, but that having been requested by the garrison on the opposite side not to increase the number of scoundrels already inhabiting their neighborhood, I am fearful of giving umbrage. Policy demands this attention.

The public prints contain according to my estimation the most important information. I am apt to believe the Deal account of the counter revolution in France. It is but natural to believe men of such prudent characters as Moreau and Pichegru are acknowledged to be, would first collect at Paris as many partizans as could meet there without creating suspicion before the latter and others of the same sentiment would venture in France. The conspiracy being discovered, the blow must be struck, otherwise ruin is the inevitable fate of all concerned, and we know that one stab is sufficient to effect every purpose, besides how many instances are to be found in history of men such as Bonaparte falling by the very means they adopted to secure themselves. His guards in all likelihood did the deed. If it be ascertained that a French General actually landed at Deal so immediately after the apprehension of Moreau, the fact in my mind, is certain. A post or two will, however, clear the business. May it be such as will benefit the dear little island is the ardent prayer of.

(P.S.)—Claus and I still keep determined to cross to you by the next trip the Toronto takes. Sheep cannot be procured. I send a lamb and a piece of beef.

(C. 513, Pp. 138-40.)

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**From Lt. Col. Brock to Lt. Col. Green.**

Fort George, Wednesday, 18th May, 1804.

Dear Colonel:—

We had the good fortune to be landed before three and found that no disagreeable occurrence had happened during my absence with the exception of a desertion from Fort Erie of which we were already acquainted.

I have letters from England as late as the 6th March. They contain nothing of a public nature but what the newspapers have already announced.

General Burton was dismissed from the service but reinstated immediately after.

The General's trees have not arrived. Mrs. Stewart informed my messenger that she had received a letter concerning them which gave

her reason to expect their arrival every moment. No attention will be wanting to preserve and to have them speedily forwarded to York, when once they get in my possession.

I am very sorry to say the number of sick have greatly increased. We have now twelve attacks of fever, not very alarming—three were brought from Chippawa. No intelligence of the Camden. The different packages entrusted to my care have been already forwarded agreeably to their respective address.

The General will permit me to say that the great civility and attention which I constantly receive from him in my frequent excursions to York can never be forgotten.

With every wish for your health and happiness in which Carry is sincerely included, allow me to subscribe myself.

(C. 513, Pp. 141-2.)

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**From Lt. Col. Brock to Lt. Col. Green.**

Fort George, July 13th, 1804.

My dear Sir:—

That you have lost the sale of your majority by an unjustifiable representation of General Gordon, there can be no doubt. The Duke, we know, is too liberal and indeed too just to deprive you of a well earned stipend without means being employed to deceive him. I, therefore, trust that a memorial stating things as they actually are, may be productive of much good. General Gordon could not surely divulge the confidential communication you made him with regard to the negotiations you were carrying with Captain H. . . . . and yet how could he accomplish his end without resorting to such a mean artifice.

Your last letter is dated 18th ulto. The different General Orders, Courts Martial, etc., I received by the same opportunity. The Duke of Kent arrived here last Sunday, a perfect wreck, having carried away both top-masts. The Commodore represents this accident to have happened rather in an extraordinary manner. The flaw of wind which caused such mischief was neither observed coming nor was its effect felt on deck. It subsided as suddenly as it came which enabled the Commodore to save nearly the whole of the rigging and all the sails. We are busily employed in getting her ready for sea. Proper masts have been procured with some difficulty with which she will be fitted, I trust, tomorrow. A very trifling expense will be incurred. The Duke of Kent brought the Indian presents and delivered them in very good order. Mr. Fleming, the surgeon, has arrived and proceeded to Fort Erie.

Captain Dennis has informed that he has apprehended a seaman, a deserter from the Camden. I have directed he might be detained until her arrival.

We get on here so smoothly that I have little more to do than to attend to my garden which comes on most luxuriantly. The last ten days have produced a great deal of rain which came seasonably and has done much good to the country.

We have very little intercourse with York since the General left it. There are three or four strange families arrived and are waiting for a vessel to cross.

You will perceive that I have intermixed in this letter some trifling official matter, a thing I scarcely intended. You can, however, easily cull what may be necessary.

We are anxiously waiting to hear of the arrival of the fleet which, if reports say true, will terminate your stay at Quebec.

I trust the General will return quite renovated in health and that you and Carry may bring along with you your usual portion. We have but one man in hospital and he was sent down from Amherstburg in a consumption to try the effect of change of air.

(C. 726, Pp. 157-9.)

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**From Lt. Col. Brock to Lt. Col. Green.**

Fort George, July 28th, 1804.

Dear Sir:—

I have little else to notice than the receipt of your letters of the 21st and 22nd, and the arrival of the Camden at Fort Erie just in time to receive the Indian presents with which she will sail in a day or two for Amherstburg.

Everything remains quiet in the different quarters. The reports received from the officers commanding are very satisfactory, both as to the behaviour and health of the men.

A deal of rain has fallen of late, which, I fear, will prove very hurtful to the grain. The grass will, however, be benefitted, which must relieve the exorbitant price the farmer has set on his hay.

With every sentiment of esteem, believe me,

(C. 513, P. 158.)

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**From Lt. Col. Brock to Lt. Col. Green.**

Fort George, August 7th, 1804.

Sir:—

I have nothing more to notice than the receipt of your letter of the 20th ulto. I shall be ready to embark immediately on the arrival of the

Toronto. I have thought it necessary to detain the Speedy here as she may be required to remove the intended reinforcement of fifteen or twenty men to Kingston. The Camden has sailed some days. Having nothing more to add will convince His Excellency everything remains in profound quietness.

(C. 513, P. 159.)

**From Lt. Col. Brock to Lt. Col. Green.**

Quebec, September 10th, 1804.

Sir:—

We reached this place at daylight yesterday without any incident during the journey worthy of notice. The weather was particularly fine the whole way. Captain Ormsby who arrived on Tuesday was equally fortunate.

Lt. Col. Glasgow reports that everything in regard to the garrison has proceeded in the usual regularity since General Hunter's departure.

You can scarcely expect in the bustle in which I find myself that I should more than merely report my arrival, indeed the English papers of the 5th, 6th, and 7th of July do not afford a single article of the least importance. Matters seem to be carried on in the same dull routine as during the late Ministry.

I cannot, however, withhold saying for the General's information that some officer of the Canadian Fencibles has written to a friend that objections have been started in regard to the terms upon which the men of that corps have been raised and that it was supposed the greater part would be discharged though the writer was not very explicit, it seems evident that one of the family becoming a soldier was sufficient to entitle the rest to a passage to this country. This mode of withdrawing such numbers of persons from Scotland has alarmed gentlemen particularly interested who have represented the business as militating against the provisions of a recent act of Parliament to prevent emigration. General Hunter will be pleased to receive my grateful thanks for the confidence reposed in me.

(C. 513, Pp. 163-4.)

**From Lt. Col. Brock to Lt. Col. Green.**

Quebec, November 1st, 1804.

Dear Sir:—

.....  
 ..... The Lieut. Governor has communicated to me a letter which he received from Mr. Merry\* some time back. The intelligence which it

\* British Minister at Washington.

contains he considers a mere trick to obtain money. Finding that a similar despatch was forwarded to General Hunter by express, I forbear saying more on the subject making no doubt it carried the same information.

A vessel has arrived which sailed from Portsmouth either the 10th or 12th of September. She brought no letters or papers. The master says that he understood that a desperate attack had been made on the gunboats which had come out of Boulogne and ranged themselves close to the shore, in which position they were protected by the batteries. That we had suffered greatly in men but that we had succeeded in destroying a great number of the boats besides committing great havock among the enemy. I asked him myself whether the people in England were satisfied with what had been done and he assured me they were completely so. The affair may have the effect of inspiring the French soldiery with a dread of our navy when they find that even protected from the shore, they are worsted. This affair was intended to be assured as a trap or rather as a bait to draw us into a scrape. If it tends to breed dismay in the enemy we have attained a great point.

The fleet sailed hence on the 29th. The weather has been remarkably favourable since. The Orpheus got upwards of thirty added to her crew by pressing.

Sad reports are in circulation in regard to poor Paxton which I fear will prove too true.

(C. 513, Pp. 181-4.)

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**From Thomas Barclay\* to Hon. Thomas Dunn.**

Private.

New York, 23 May, 1807.

Sir:—

A Mr. Cassino, who has been French Consul at Portsmouth in New Hampshire, has returned to France last fall, and soon after had an interview with the Emperor and Talleyrand, who ordered him out immediately to America. He had a short passage, has been to Washington and is now on his way to Canada. He will probably go first to New Hampshire and enter Canada from thence, but this is not certain. His pretence while here was that he was going to contract at Montreal for furs. His errand assuredly is to tamper with the Canadians for which purpose he has been sent out again. He will probably pass under another name, and either as an Englishman or American. He is from 30 to 40 years of age, near six feet, rather thin, fine teeth, fair complexion, hair, short, curly, and of a sandy colour and coarse. Is a sensible, well informed man, who can converse on any subject. I sincerely hope you may be able to apprehend him in your Province or in Upper Canada.

(C. 14, Pp. 157-8.)

\*British Consul at New York

**From Colonel Brock to President Dunn.**

Quebec, 17th July, 1807.

Sir:—

It is impossible for a person in my situation to contemplate the intelligence received by the last post without immediately calculating upon the means of defence to which he can resort should a rupture between England and America be the ultimate consequence of the events officially announced to have taken place\*.

It appears beyond a doubt that measures inimical to the interests of England have already been adopted by the American Government, and that certain points are left for discussion, the result of which is to determine the question of peace or war.

There is at least a possibility that these points may be rejected and that war may ensue. I, therefore, conceive I do not go beyond the sphere of my duty in respectfully submitting such observations to Your Honor as appears to me from the military position of this Province to call for serious consideration.

It is well known to Your Honor that the number of militia now armed and every way instructed does not exceed three hundred. As many thousands might easily and with perfect safety be selected and formed into corps.

This force joined with the efficient assistance, were the necessary arrangements instantly taken, upon which we could in that case safely depend from the adjoining Province, added to as many regular troops as could be spared from this garrison, would create a force, which if not competent effectually to stop, at any rate equal to harrass and considerably impede the approach of an enemy towards Quebec, and the gain of time in such a country as this, particularly, is everything, but without such an aid, it would be hazardous in the extreme for the military to quit Quebec, and the enemy in that case would move on unmolested.

Whilst every American newspaper teems with violent and hostile resolutions against England, and associations are forming in every town for the ostensible purpose of attacking these Provinces, I consider the time arrived when every loyal subject should be called upon to come forward and show his zeal for His Majesty's service. Such preparatory and cautionary measures can only be inconvenient to the individuals themselves, and they, I am confident, are ready to undergo every sacrifice in such a sacred cause.

What I have taken the liberty of suggesting is certainly at the present critical juncture deserving of serious deliberations, but I now beg leave to call your attention to a subject of still greater importance, and so far unlike the other that it will not admit of the least procrastination.

\*For fuller particulars of these events see the next letter.

Quebec, the only military post in this country, is in no condition of making much defence against an active enemy. The walls by which it is enclosed on the western side are very old and much decayed, and could not possibly for any continuance sustain a heavy fire. The works along the whole of that front are so completely uncovered that the first shot might strike the wall at the short distance of six hundred yards at its very base. My object is to throw up such works as will remedy this glaring defect, but the garrison is totally inadequate to such a heavy undertaking. I therefore presume to state my wants with the full confidence of meeting that support and assistance from the civil government as the exigencies of the case evidently require.

Six hundred to a thousand men would be required every day for six weeks besides a vast number of carts, &c., &c.

Should war with America take place, probably no serious attempt will be made against this Province before spring. In that case there will be sufficient time to arm and form the inhabitants into some degree of order, but in regard to the additional works proposed to be constructed, unless they are completed before the middle of October, they must be postponed until some time in May. It will then be too late to enter upon such an undertaking. These facts in my humble conception are, considering the times, worthy Your Honor's most serious and early consideration.

It would ill become me to suggest the mode by which the means proposed are to be attained, but I am confident they are to be found in your superior judgment.

(C. 1214, Pp. 332-4.)

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**From Colonel Brock to President Dunn.**

Quebec, 23rd July, 1807.

Sir:—

Colonel Brock has perused with due attention the proceedings of His Honor, the President in Council, communicated to him by Mr. Ryland, and begs leave to observe that in addressing His Honor on the 17th instant it was far from his intention to assume a political character.

His sole object was to state the assistance required by the military to remedy a glaring defect in the fortifications at Quebec, should His Honor conceive that preparatory measures were necessary to be adopted in consequence of the events which recently occurred between His Majesty's ship *Leopard* and the American Frigate *Chesapeake*, but more particularly the aggressive provisions contained in the Proclamation of the American Government.

In thus complying with the details of his duty, Colonel Brock was not prepared to hear that the population of the Province, instead of

affording him ready and effectual support, might probably add to the number of his enemies, and feels much disappointment in being informed by the first authority that the only law in any degree calculated to answer the end proposed, was likely, if attempted to be enforced, to meet with such general opposition as to require the aid of the military to give it even a momentary impulse.

Colonel Brock is therefore obliged to observe that the officer commanding would certainly not choose the time when the troops may every instant be called upon for the defence of Quebec, to disperse them over the country in aid of the Civil Government, coercively collecting a body of men which under such circumstances would be of more detriment than service to the regular army. Colonel Brock, therefore, cannot look for any assistance from that quarter, but should an emergency arise, he is confident voluntary offers of service will be made by a considerable number of brave and loyal subjects and feels himself justified in saying that even now several gentlemen are ready to come forward and enroll into companies men on whose fidelity they can safely rely.

It remains with His Honor to determine the degree of countenance which ought to be given to such sentiments.

Colonel Brock will be at all times proud to attend deliberations of His Honor in Council.

(C. 1214, Pp. 338-9.)

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**From Colonel Brock to Lieut. Governor Gore.**

Quebec, 30th July, 1807.

Sir:—

Conceiving that the importance of the objects which it may be necessary to arrange under the present situation of our relations with the United States of America can be more satisfactorily settled by means of verbal communication, I have the honor to acquaint Your Excellency that I have despatched Lieut. Colonel Pye, the Deputy Quartermaster General, to York to consult and receive directions with regard to such measures as it may be expedient to adopt.

He is in full possession of my sentiments and I can safely recommend him to Your Excellency as an officer of intelligence and high merit.

(C. 1214, P. 345.)

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**Minutes for the guidance of Lt. Colonel Pye.**

Quebec, 1st August, 1907.

To ascertain from Lt. Governor Gore the conduct he proposes to pursue on the present occasion.

To represent the utter impossibility of detaching a single man to his assistance.

To urge His Excellency to direct the militia east of Kingston to attend to my orders, they scarcely will be induced to march upwards.

To consult and arrange with the gentlemen of the greatest influence in that country the measures to be adopted at this juncture.

To ascertain the number of British subjects or their descendants in whom confidence can be placed, and whether they shew a disposition to march for the defence of the Lower Province.

If they have been accustomed to hunting or have become by any other means acquainted with firearms.

The military stores at Fort George very injudiciously placed, and ought if possible to be removed to York; those at Amherstburg in the same predicament.

Should hostile appearances continue, to recommend the distribution of arms to those best disposed, and to issue at the same time a large quantity of ammunition.

Powder and flints very scarce in the States. Essential consideration to prevent the Americans getting any supply from the immense quantity at present in the Upper Province. The route to Montreal from Kingston more easy and speedy than through their own country. Not required in the Lower Province consequently the overplus ought to be removed to a place of security and destroyed on the first danger of falling into the enemy's possession.

The same may be said of the heavy ordnance. To give positive and pointed directions for all long guns since reported unfit for service to be completely destroyed by causing the trunnions and cascables to be knocked off besides spiking them in a most effectual manner. No delay to be suffered in executing this order, officers commanding to report to headquarters having done so.

To be guided by circumstances in giving orders for the equipment of the King's vessels on both lakes for service.

Should it be thought impossible with the slender force in the Upper Province to attempt any active defence to order one hundred young men of the 41st to Kingston, to be in readiness to act in conjunction with the militia on the east of Kingston.

ISAAC BROCK, Colonel commanding.

(C. 1224, Pp. 347-8.)

**From Colonel Brock to Lieut. Governor Gore.**

Quebec, 21st September, 1807.

Sir:—

Having applied for a copy of the letter from Halifax, (the original of which I perused), which I was made to understand was enclosed in the despatch Mr. Shaw took lately to Your Excellency, I found the post-script omitted, and being apprehensive the same unnecessary caution may have been followed in regard to you, I enclose for Your Excellency's information, an extract from a Halifax paper which contains the substance of the intelligence referred to.

Policy would naturally make such a plan known everywhere except in this Province. I therefore think Your Excellency should be provided with the means of diffusing it among your people, as nothing in my opinion can forward your object more essentially.

**ENCLOSURE.**

The following information is derived from a very respectable source, and the reconciliation of Bonaparte with Moreau, together with the well known fact of the latter being now actually employed by the American Government, leave no room to doubt that the outline of the plan is correctly given, though the vigilance of the British Government may easily destroy it in the bud, or completely prevent its accomplishment.

**PARTITION OF AMERICA.**

"The correspondence of Talleyrand and General Moreau which caused such surmises at New York in February last, is at length developing, and we can scarcely be surprised at the events which have since followed. Bonaparte and Moreau are reconciled. If Moreau can persuade America to break with England, 10,000 French troops are, in conjunction with the Americans, to drive the English from the Continent. Canada and Nova Scotia are to be erected into a monarchy and Moreau to be crowned king of Acadie and both the Canadas. America is to have the Floridas as well as Louisiana, and the island of Porto Rico or some other valuable West India island is to be given up to them.

"The Government of America not having sufficient energy by the present Constitution, the President is to be supported in his endeavors to change it and a new form of Legislature adopted in which the Chair is to be assumed for Life.

The only difficulty is stated by the American Government to arise from the Northern States, who might be averse to such a neighbor as the kingdom of Acadie and Canada, governed by a Frenchman, but this may possibly be overcome if the war with England can be made a popular one.

"The authenticity of this intelligence cannot be doubted, and the Americans who are now loudly crying out for a war with England, may know how completely they have been made the Tools of France and its Pensioners."

### III.

#### SOME MISTAKES IN HISTORY.

By MISS JANET CARNOCHAN

How easy it is for a false statement to take wings; how difficult it is to have it corrected when once told incorrectly! How impossible to make people, who have told the same story time after time, acknowledge that there could be any error in it! When it is merely a question of date or something involving no principle, it is comparatively unimportant; but when the honor of an individual, of a regiment, or a country is involved, it is a far more serious matter.

I have met with many statements commonly received which are quite inaccurate, and yet from writer to writer they are told and retold with the most unvarying inaccuracy—some of these grave, some gay, some grotesque and sometimes gruesome, still worse, some malicious; some with a touch of humor, others with bias. A lie which is all a lie can easily be disposed of, but that which has truth mixed with falsehood—who can manage it successfully? One after another they pass before me, a procession of mistaken ideas, exaggerations, false statements, which will not “down,” and unless the few able critics who have arisen of late years can effect an improvement, the false story will go on through the ages.

False statements are made, some merely from carelessness, others from partisan feelings. Perhaps some have arisen from a story told in joke, or again the historian can scarcely refrain from dressing up his tale to make it more effective, more thrilling and dramatic. Nearly all the mis-statements to which I will refer have some connection with Niagara or vicinity, and many of them came under my own notice.

Strange tales are told of cherished relics, the falsity of which is often shown on the face of the article, one instance of which occurs to me. In a large and valuable collection of relics (many of them family heirlooms) was a heavy weight, the owner claiming that it was brought from Fort Niagara at its capture in 1813. On inspecting it closely there were found the words stamped in “Geo. IV.,” who reigned from 1820 to 1830, which effectually settled that story.

The old stone building at Queenston, the home of Wm. Lyon McKenzie when in 1824 he printed the Colonial Advocate, has given rise to many a false statement—one made to me I am sure at least fifty times: “That is where the first paper was printed in Upper Canada,” quite

oblivious to the fact that the first paper was printed in Newark, now Niagara, in 1793, thirty years before.

A picture of an old tumble-down frame building was lately seen in a Buffalo paper labelled "The house where the body of Brock was carried." On investigating, it was found that the house referred to, then being taken down, was built long after the battle of Queenston Heights; but two places were claimed by different individuals, and each may be correct, as at first the body was carried into the old stone house still standing and then farther down to a more safe place as the battle progressed during the day. Many such tales are told to tourists who again retail them with additional embellishment.

It is sometimes very difficult to locate the scene of a remarkable event. Thus in taking the testimony of several old residents as to the spot where Brock was first buried, four agreed on the place where we have placed a marker near the gate of entrance to Fort George, while two others placed it near the old sycamore tree near the west corner, though in the entry in St. Mark's register of Rev. R. Addison the north-east bastion is mentioned.

A singular mistake made in an inscription in enduring brass was lately discovered at Brock's monument when copying for our No. 10, the two inscriptions—inside the monument and at the entrance. I found that while the one states this monument was erected to replace that destroyed 17th March, 1840 (which is the correct date), the other states it was to replace that destroyed in 1838. To the latter are appended the names of the Committee all given, with infinite particularity as to titles, as Colonels, Honorables, Esquires, etc., and this mistake has remained uncorrected for over fifty years. A little trouble taken to verify the date would have been better than the trouble taken over the titles.

For many years on the road to Queenston a tree called "Moore's Oak" has been pointed out as that where the poet Moore sat while composing "The Canadian Boat Song" during the time he was entertained by General Brock, in 1804 (then Col. Brock at Fort George), whereas that song was written near Ottawa—"We'll sing at St. Anne's our parting hymn." It is quite likely that in the shade of the oak the poet may have rested as fondly believed by a lady who lived in a house still standing and in view from Fort George—a house with peculiar church-like arched windows, the lines which he wrote, "And I knew by the smoke that so gracefully curled from the sweet little cottage"—referring to this particular house.

The Parliament-Oak is another myth—a nut hard to crack—yet like all myths it must have some substratum of truth. "That is where the first Parliament was held under that oak tree." "A man was hanged from one of its branches;" these are the stories floating about. It has always been a mystery to me why the early legislative fathers came so far as this from Navy Hall to sit under the shade of an oak tree. It is certain that, when Lt. Governor Simcoe came, one of the four buildings

called Navy Hall was fitted up for him as a residence, and that he in turn had fitted up one of these buildings for the Legislators, the cost of the material, quantity of timber, nails, shingles to repair and enlarge it, being given. It is also believed that a tent was used above the hill, and as we know how excessive the heat is in a tent on a hot day, it is probable the members did adjourn to the shade of a tree where they could enjoy the cool breeze from the lake or river. But why go so far as to cross the common where now so many trees are in sight much nearer? We must remember, however, that what we now call the oak grove is second growth. In a map of 1835 it is called "young oak," and the government reserve was the Niagara plains, an Indian camping ground, or sometimes their corn fields, so there may have been no nearer large trees than this. But, alas, the tree is now no more; long it stood in the grounds of Senator Plumb, formerly Judge Campbell's, whose father, Fort Major Campbell, was buried at Fort George in 1812. Dead bough after dead bough was lopped off till only two remained, and no wonder, for the corporation laborers had cut away the trunk on one side to fit the sidewalk, and the fence builders cut it away in another direction to keep the fence straight. Boys built a fire in its hollow trunk, and finally the tree was ruthlessly cut down. The following lines were addressed to its destroyers:

Woodman spare not that tree,  
Lop off its every bough;  
Though Parliament Oak it be  
We'll not protect it now.

Fortunately we possess a picture of it, though during its decay.

St. Mark's Church is commonly said to have been built in 1792, as lately inserted in maps and register, and is often called the oldest church in Ontario, while that honor belongs to the Mohawk church near Brantford, built in 1786, and it is known that a Presbyterian church was built in Stamford in 1787. It has now been conclusively shown that though the Rev. R. Addison came as a missionary in 1792 to Niagara and all the region around, by documents from the Society for the Propagation of the Gospel in foreign parts, that St. Mark's was not started till 1805, and the first service within its walls was in 1809.

The story of Laura Secord has had many additions and embellishments—one that she started barefooted for a twenty mile walk, the mother of a family in good circumstances. This is disproved by her own story of losing one shoe in the marsh, and that when she arrived her feet were so swollen that it was difficult to take off her stockings.

How firmly do some people cling to the belief that old china and old furniture they almost worship came over in the Mayflower. It is said that according to the tales told, more furniture came over in that wonderful little vessel than would fill several of the largest steamers now afloat, and that the particular kind of china now claimed as coming then was not manufactured till many years afterward.

When the Prince of Wales, in 1901, visited Niagara, he was treated with figs grown in the open air, but the London Times oracularly said "this could not be true for Canada was such a cold country." Another reporter, in describing Montreal, said that the houses were mostly of wood and brick.

Although the Niagara Society has been exercising great care, I am afraid we have perpetuated a mistake, if not in enduring brass, at least on solid limestone. A marker placed in 1902 gives the position of the Gleaner Printing Office of 1817, and the first Masonic Hall, 1792. This was taken from a document from the Land Board, apparently beyond dispute, giving permission in 1791 to erect a tavern at the east corner of the town, next the river, and a Free Mason's Hall, next to it. Later investigation in the Crown Land office gave the position of lot 33 marked "The Lodge," which we reasonably suppose to be Free Mason's Lodge. Not quite satisfied with this, the next year a ponderous tome was found to give the fuller statement—lot 33, Free Mason's Lodge, and it is a remarkable fact that the present Masonic Lodge, No. 2, stands in this very spot, the building long known as the Stone Barracks, built soon after the war of 1812-14. This discrepancy may be explained in two ways. While the Land Board gave permission to build next to the tavern, this may not have been carried out, and an exchange of sites may have taken place. The other explanation is that while it was to be at the east corner of the town and the other next to it, it may mean the next corner to it, which is exactly where it now stands.

The Review of Historical Publications relating to Canada is a most valuable work. The reviews are frank and fearless; generally kind, but not hesitating to chronicle errors. In Vol. XIII. (for the year 1908) is noticed a volume printed in a sumptuous manner, "The Niagara River," by A. B. Hulbert, in which most astonishing mistakes are found. It is stated that 10,000 United Empire Loyalists landed at Niagara in 1783, no doubt making the mistake from a careless reading of the statement that 10,000 U. E. Loyalists came to British territory, but these were scattered on many shores—Nova Scotia, Niagara, Lake Erie, Adolphustown, and at different dates as far back as 1777. It is also stated that Niagara had a "daily newspaper" in 1792, and that the first newspaper in Upper Canada was printed in "an old ruined stone house" at Queenston in the same year. Neither of these statements is true. But this is surpassed for inaccuracy by the astonishing statement that "the following great Canadians were born in Toronto:—Prof. Egerton Ryerson, Sir John Macdonald, Sir Daniel Wilson, Rev. W. Morley Punshon, Hon. George Brown, Sir Oliver Mowat." However proud Toronto may be of its native born, it will make no attempt to claim as natives these great men born in such distant places.

So far the mistakes have been mostly from inadvertence; but we must now mention others which can only be classed as partisan. One copies from another what is supposed to be true. The beautiful poem, Gertrude of Wyoming, with its idyllic, pastoral scenes made hideous by

what is called the "Massacre," and in which we find the phrase "the monster Brant," gives us a false idea of the well-educated, wise and humane Indian chief, Thayendanegea, who, to crown all, was not present, as proved afterwards by his son to the poet; but the poem remains unaltered, although subsequent editions contained the correction made in fine print in a corner where few would see it.

The celebrated Scalp Story, (but there are two scalp stories, the one easily contradicted, the other with all its gruesome details too dreadful to repeat) has been disproved, but still it lingers. Can it now be believed that at this late day, 130 years after, it is revived in a story by Chambers, "The Maid at Arms"? During the Revolution, near its close, when all seemed lost to the Colonists, there was made public what was said to be a letter to Governor Haldimand, sending barrels of scalps to be sent to the King of England for which a price had been paid, all told with the greatest minutiae and particularity of detail, so many of soldiers, so many of farmers, so many of women, so many of boys, so many of girls—even to infants, with Indian hieroglyphics as signs of how they had been killed and where. Stone's *Life of Joseph Brant* says, "This was long supposed to be authentic but has since been ascertained to be a fabrication for political purposes. All was told with such an air of plausibility as to preclude the suspicion that they were fictitious. When the story was disproved, the only excuse made was that something must be done to rouse public feeling. In the "Maid at Arms," by Robert W. Chambers (No. 2 *National Series*), the dates and names are altered, but the statement is copied almost word for word, and though in a work of fiction it is given as actual fact, a miserable wretch is represented in the act of carrying this horrible burden with a paper stating the price to be paid.

The other scalp story is of a later date, but is too absurd to be believed and is only received with a smile. In the war of 1812, when York was captured by the U. S. forces, the story was told that a scalp was found hanging in the Speaker's chair. This was well known to be a harmless wig left on his chair by the Speaker of the House.

An incident of personal interest may be given. Invited to attend the meeting of an Historical Club across the boundary river, I listened to a paper read by a young lady in which it was claimed that the battle of Lundy's Lane was a victory for the Americans, and an old story was brought forward that the capture of Fort Niagara by the British in Dec., 1813, was accompanied by peculiar barbarity, viz., that the sick men in the hospital were slain. No doubt the origin of this is that an American account to prove the bravery of their men states that the sick men in the hospital rose from their beds to fight, in which case they were combatants and might be treated as such. When called on to say a few words, while complimenting some of the speakers, I said, "Of course you cannot expect me to accept all the statements made. Historians require to use the greatest care, must give the closest scrutiny in their researches. We know that partisan writers give very one-sided views..... We know that in the late Boer war one side told of British bar-

barities, and the other of Boer cruelty; and too, in your own Philippine war we have heard of cruelties on each side; but we must weigh carefully before accepting all that is written. War is cruel; the object of each party is to kill or disable the other."

In the Elsie books, so popular for a while in Sunday Schools, one called "Elsie Yachting" was presented to a Canadian S. S., but was fortunately put into the hands of one who acted as censor. The father is described as taking his children to the scene of naval engagements, and hatred of Britain is inculcated in their young minds. An American success is a glorious victory, a British victory is accompanied with brutal ferocity.

In a story by Chambers called *Cardigan*, all the American soldiers are fine looking, kind, brave; all the British are brutal and cruel, the only exception being Sir Wm. Johnson, who is spoken of as a good man, his goodness apparently springing from a supposition that he was about to join the Revolutionists at the time of his death. It is only lately that from documents never before printed, much light is thrown on dark points. We forget that in the British Parliament one side constantly opposed the other's war policy. The fiery denunciations of Chatham against the British using the Indians on their side were eloquent, the atrocities practised being described in emphatic language; but he was then quite ignorant that the Indians were used by the Americans in fighting before they were enlisted by the British, as told by their own historians, 19th Apr., 1775, at Lexington, and 8th July, empowered by Congress.

We also have partisan writers on the Revolution, but comparatively few. Is it not time, as I have previously said, that, after a hundred and forty years, each party should acknowledge the right of the other to do what he thought best; that those who conscientiously remained loyal to the king should be respected, as well as those who conscientiously opposed him; that each should exercise his right of judgment? Our neighbors have been long in acknowledging this, but we rejoice that of late there has been an improvement in this respect, and that the action of the U. E. Loyalists is better understood. We acknowledge that bitter remarks have not been wanting, but there is some excuse for those who lost all their property, who were imprisoned, tarred and feathered, or executed for expressing different opinions to those in power.

A book lately published by a Canadian, the story of the burning and setting loose of the *Caroline* in 1838, represents that there were some left on board the burning vessel to drift over the Falls; but this is pure imagination.

Our historian, Col. Cruikshank, could fill a volume easily with corrections of printed statements. I remember turning over the pages of his copy of Lossing's *History of the War of 1812*. It was full of annotations, whole pages of manuscript inserted and corrections innumerable. Col. Cruikshank deserves the thanks of his country and some public

recognition of his services. Years of his life have been devoted to research, visiting the Parliamentary Library and Archives of Ottawa, the libraries of Albany, New York, Washington, collecting documents in Canada, England and wherever else to be found. His accounts of all the battles of the War of 1812 in our vicinity—Queenston Heights, Lundy's Lane, Stoney Creek, Beech Woods, Fort Erie; his account of Butler's Rangers, his eight volumes of Documentary History, form a collection of historical lore unsurpassed for accuracy, impartiality and careful research. Only his modesty prevents his merits being better known.

#### IV.

### THE VALLEY OF THE OTTAWA IN 1613.

By BENJAMIN SULTE, LL. D., F. R. S. C.

The easiest way to speak of the discovery of the Grand River would be to reproduce the narrative written by Champlain immediately after the event; but we have no room for a lengthy composition. Allow me to submit a short epitome of it, with a few remarks.

The whole valley of the Grand River belonged to the Algonquins, but they were not disseminated equally on its shore. In fact, they formed three distinct groups, or nations, as the French styled them.

First, the Iroquets, between Vandreuil, the Rideau and Kingston, roving in that triangular territory, hunting and fishing, having no particular home, only according to season when they moved from one place to another, and lived miserably all the time, because they never settle down for good. Yearly some small parties of their young men went to the north of the State of New York to harass the Mohawks, and these Iroquois used to come every now and then to take a revenge of such aggressions. It was a bloody life on both sides, and we must say that the Iroquois showed themselves in every respect far superior to the Algonquins. They would have conquered the country of their enemies without much trouble, only that they had enough space at home and a more advantageous climate. It must be said also that in 1613 the fur trade question had not yet tempted the cupidity of the Iroquois, therefore the valley of the Ottawa, so rich in the various kinds of fur, could not attract them, as it did afterwards. The war kept the form of a kind of noble sport, repeating constantly what took place during centuries in America previous to its discovery by the Europeans. Our Algonquins were satisfied with that kind of uncertain existence. By the month of May they usually selected a spot on the river shore and encamped there until the fall, when they returned to the forest for the winter. The building of a wigwam was done in part of a day by planting a few sticks of wood in a particular manner and covering the structure with large skins such as that of the moose or wild cow. This wandering life suited their primitive nature, although they knew very well that some of their neighbors had more comfortable lodgings and were steady "citizens" in their villages.

The people of Petite Nation, in the rear of Papineauville now, were quite different and lived in the centre of a marvellous country for hunting and fishing. That tribe was not given to warlike spirit, but to trade and commerce rather. None of the Indians occupying the upper part of the rivers which run to the Ottawa and the St. Maurice carried arms

other than the ordinary weapons used against the animals of the forest; meantime they were in want of many useful articles, on account of the poor nature of their country. The industrious Petite-Nation supplied them with a certain number of these articles, such as birch bark to make canoes with, and in return received some of their natural products in the way of curious stones for ornamental purposes and other things highly appreciated amongst the Small Nation. This latter people had a somewhat comfortable village, and cultivated pumpkins, corn, etc., for their own consumption, so that they needed nothing more and cared very little for the white men when they heard of their arrival in the vicinity of Montreal. Champlain never visited their village, but he speaks of what was told him in that respect. Here and there a few canoes of the Petite Nation would go to Montreal in June or July to barter some skins for knives and other articles of European manufacture, without ever joining the other Algonquins in the wars above mentioned. This peaceful community, nevertheless, was finally destroyed by the Iroquois about the year 1650 because they were friendly to the French.

Between the mouth of the Lièvre and Chat Lake (some 90 miles) many bands of hunters could be seen during the year, but no village, except an occasional encampment. This remark applies also to the Ontario shore of the Grand River.

The tribes located north of the Ottawa at the sources of several waterways came during the summer, by the Gatineau, for instance, to meet any one ready to trade with them, even the Hurons of Lake Simcoe using Rideau River in such travels.

The main body of the Algonquins lived on Allumet Island. They were called the great Algonquins because of their number. Their chief was a sort of a king, a master of the whole, the "fountain of favours," an absolute sovereign. As early as 1603 he had gone to Tadoussac with a retinue indicative of his importance, to see Champlain, and they spent the time in festivities like gallant crowned heads. Allumet Island had a town and all the advantages of Indian civilisation within the means of the district and the aptitudes of an Algonquin organization. Besides hunting, fishing, which was plenty all around, and some tilling of the soil, they understood the benefit of trade at long distance, and, again, no one could pass the river opposite their island without paying a tax arranged after a fixed tariff. This was the case also with the people of Lake Nipissing, and the two powers were at swords-drawn on the subject, and, we must add, all the more because the Nipissings were great rivals in the trade with the northern tribes in the direction of Hudson Bay. Read history, over the world, and you will find that most of the wars had their origin in some rivalry of trade. Nothing new under the sun, not even in Canada.

Altogether, the Algonquins were but a few hundred families in the valley of the Ottawa, forming three groups, as above described. Those of the counties of Vaudreuil, Prescott and Russell fought the Iroquois without the assistance of Petite Nation, but sometimes the Allumet warriors came down to take a share in the fun.

It stands to reason that most of them were glad to see the French coming with their wares and their firearms. Champlain soon found out that he was compelled to follow the red men in the war, otherwise the friendship could not last long between them. He had to give satisfaction to the imperative call of his surrounding allies, no matter if he displeased an enemy whose country was far away from him and not at all in the direction he wished to go, as his principal aim was Upper Canada.

Therefore, in 1609, he made the acquaintance of the Mohawks by firing a few shots amongst them. This, it is said, was the cause of the terrible vengeance exercised for a long time afterward by the Iroquois against the French. Not so. The Mohawks kept quiet enough after 1609; it was only about the year 1630 that they joined the other Iroquois tribes politically and created the strong confederation which is always mentioned as having originated in the early period of Champlain's travels. This happened as much against the Dutch of Albany as against the French of Quebec, and it would not have disturbed the French if the Dutch had not given firearms to the Iroquois, in 1636, with a view to conciliate this people and have them on their own side, for the fur trade is at the bottom of the arrangement—it was not the case in 1609, and at that time a skirmish or two amounted to very little.

Furthermore, if Champlain had avoided the affair of 1609 he was sure to meet it at any moment when the Mohawks would take any chance to attack the Algonquins with whom he was trading.

Now, let us deal with the discovery of the river by Champlain, at the rate of fifteen miles per day in bark canoes.

The departure took place on the 27th of May, 1613, from St. Helen Island, opposite the present city of Montreal, in two canoes, manned by one Indian, Champlain, two interpreters: Vignau and Thomas, and two other Frenchmen.

On the 3rd of June, above Long Saut, they met some Algonquins and an exchange was made with an Indian who was willing to accompany Champlain whilst one of the two Frenchmen returned to Montreal with the party.

On the 4th Champlain noticed the mouth of the Gatineau and was told that river led to the St. Maurice, also that the Algonquins passed that way to reach Three Rivers in order to avoid the encounter of the Mohawks sometimes roving in the lower part of the Ottawa River.

Let us mention here that the name of the Gatineau came afterwards from Nicolas Gatineau, a trader of Three Rivers who adopted that route to meet the Indians of the Ottawa.

Turning his eyes to the other side of the main river, the explorer saw the Rideau Falls: "An admirable sight," he says. "The water slips down with such impetuosity that it makes an arch of 400 paces. The Indians enjoy passing underneath without getting wet except from the

spray produced by the fall. There is an island in the centre, all covered with trees, like the rest of the land on both sides. It is a portage for canoes going southerly, but the Iroquois are sometimes hidden near the place."

The arch mentioned by Champlain was termed curtain (*rideau*) by subsequent *coureurs de bois*. No doubt he observed the promontory where the Parliament building stands—without imagining that three centuries later such a construction could be seen there.

As the river from Montreal to the Chaudière is far from being in a straight line, he had somewhat lost his bearing and he took the astrolabe to ascertain his position. "I found," he says, "that we were in 45° 38' latitude." The correct figure is 45° 12', but the astrolabe was always an imperfect instrument. The statue made recently by Mr. Hamilton McCarthy, of Ottawa, represents Champlain in the act of measuring the elevation of the sun, in front of the future capital of Canada.

The 4th of June is, therefore, a memorable day in the annals of this region, and it can be said that, after leaving the Rideau Falls behind, the discoverer stopped, at mid-day, to verify his situation at no great distance from the Chaudière—say at Nepean Point, where the statue above mentioned will soon be erected. (This paper was read June 3, 1914.)

By that time the roaring of the cataract, and very soon the sight of it, attracted his attention: "It is half a league wide with a number of small islands, all rocks, covered with small trees. At a certain place the water falls with such a rage that it has dugged out a large and deep basin, so that the current running in there in a circle and making a lot of huge bubbles, has induced the Indians to call it *Asticou*, which means a kettle."

They did not stop at the place, but went ahead to Des Chênes Lake where they spent the night of the 4th June. On the 5th the Chats were seen, "near three miles wide," and so many other sceneries which Champlain describes *en passant*.

Finally he arrived at Allumet Island, exhausted with fatigue, half starved, partly eaten by the mosquitoes.

His friend, King Tessouat, could not believe his eye (he had only one eye) at such an apparition. The reception was very cordial and several State conferences took place during three days, but, if on the one hand Champlain obtained copious information concerning the geography of the North and West, he failed to persuade the chief of the necessity of going himself further on his voyage, and he saw clearly that Tessouat intended to limit the exploration of the foreigners to Allumet Island in the hope that the traffic of the Great River would be concentrated there for the benefit of him and his people.

Anyway, Champlain knew from this moment what was the physical form of Upper Canada, because he understood matters concerning Lakes Nipissing and Huron, and he had gained a good idea of the St. Lawrence

to Lake Ontario, Niagara Falls, and further, Lake Erie and the passage called Detroit by which Lake Huron empties itself into the waters of Erie. This was enough for a first trip.

On the 10th he resumed the voyage downward, with the son of Tessouat and 40 canoes loaded with furs. At the Chaudière the Indians paid due homage to the Manitou, or spirit of the water. A collection was made of pieces of smoking tobacco, and a dance followed around the tribute thus gathered, with appropriate songs in fine style; that is, says Champlain, "after their own manner." Then a captain made a warm speech, explaining the ancient and revered custom by which their ancestors had secured the protection of the Manitou against all evils, and especially their enemies—a statement open to doubt. Next, advancing toward the foaming Asticou in great solemnity, they threw the tobacco over the bubbles and raised a loud howling, and went to their canoes.

From Allumet Island to Montreal, where he arrived on the 17th June, Champlain took only seven days, but that was coming down with the current.

## V.

### GLEANINGS FROM OTTAWA SCRAP-BOOKS.

By MISS AMEY HORSEY.

Soon after the Ottawa Women's Historical Society was formed, in 1899, the members realized that a great deal of important information was being lost, which in years to come would prove of value for reference, so, in order to preserve these facts, in their proper setting, the work of keeping "Scrap-Books" was begun in the year 1900.

Three "Books" have been kept by this Society—one for the preservation of articles relating to the growth and development of the Capital, another for the principal "Events" of the locality, and a third for general Canadian "Events." For 14 years this collection for the Scrap-Books has been going on, and the work done as faithfully as it was possible, only "Events" of special note having been recorded—those which the collectors thought would bear the test of time.

All "clippings" are correctly dated before they are placed permanently in the "Books."

We will give a short review of the two "Ottawa" Books, touching only on the more important items, to give an idea as to what kinds of information are preserved.

**The Ottawa City Scrap-Book.**—The changes in the appearance and the growth and development of Ottawa in the past 14 years has been remarkable, as a glance through this book will show. First, we find a number of beautiful new bridges have been built and old wooden ones torn down to give place to handsome steel structures, the principal being the "Interprovincial." This great steel link between the two provinces at Ottawa and Hull was opened to the public for the first time on March 5th, 1901; it was three years in building, and has the distinction of having the longest Cantilever span in Canada (it is 1500 ft. long and cost over a million dollars). The first regular train passed over this bridge April 22nd, 1901.

The Minto Bridges, across the Rideau, built by the Improvement Commission, at a cost of \$40,000, were finished in the summer of 1901, and the handsome Laurier Bridge, to replace the old wooden Maria St. one, was opened for traffic in June of the same year. Ottawa has been well called "A City of bridges."

This article furnishes an illustration, from the Dominion Capital, how Scrap Books may be used in the constructive work of local history.

Some of the public buildings erected since 1900 are:—The Royal Mint, Royal Victoria Museum, Dominion Observatory, the Archives Building, Ottawa University, Carnegie Library, Young Men's Christian Association, First Congregational and Sacred Heart Churches, the Laurentian Club Building, the Glebe, Stewarton, and Chalmers Presbyterian Churches, and last, but not least, the beautiful "Chateau Laurier" and Grand Trunk Station, with Connaught Place connecting the two, so completely transforming the centre of our city that one has almost forgotten the existence of the old Sappers and Dufferin Bridges.

Then came the need for "apartment houses," which is a sure sign of a city's growth. The first one of any size built was the "Rideau," at the head of Daly Avenue, and next the "Kenniston" on Elgin St., finished in 1908. They were not only a necessity, but proved to be such good paying investments, that today in all sections of the city you will find apartment buildings, large and small, expensive and inexpensive. In no way has the expansion of Ottawa been more strikingly marked, in recent years, than by the number of new office and store buildings erected. Among these new building achievements is the magnificent store occupied by Henry Birks & Sons, the Canada Life, and the Union Bank buildings, which add greatly to the appearance of Sparks St.

The Ottawa Improvement Commission, which has done so much to beautify the Capital, had its birth in an Act of Parliament passed Dec. 21st, 1899. The Act defined the powers of the Commission, limited its expenditure, and named its first members. They were H. N. Bate, afterwards Sir Henry, chairman; Joseph Riopelle, C. R. Cunningham and the Mayor for the time being. When they commenced the work of beautifying the Capital, they decided to take Rockcliffe Park in the east end, and the "Experimental Farm" in the west, and connect the two. We all know what an elaborate scheme of boulevards, driveways and parks has been carried out. Places which once were eye-sores have been turned into beauty spots, gaining the name of "Ottawa the Beautiful," for our Capital and carrying out "the Washington of the North" idea.

Partly owing to the work of the Commission, we find new residential centres have been opened up in the last few years. "Rockcliffe," where some of our handsomest residences are; along the driveway facing the canal, and that part called "Glebe," where street after street has been laid out and on which are now many comfortable homes.

The population has increased from 60,000, when the Scrap-Book was first started, till now it reaches almost the 100,000 mark.

The first recognition of the founder of Ottawa was made this year, when a bust of Colonel By was placed in a prominent position in the Council Chamber through the efforts of the Woman's Historical Society. The members at present are working for and hoping for an Equestrian Statue of Col. By, which will ere long adorn Connaught Place, with the historic stones bearing the crest of the Royal Engineers and the date of the completion of the Rideau Canal at its base. Ottawa has entered

upon a "New Day"; "old things are passing away," and the city is proving itself worthy of its motto, "Advance."

It has been found that it was our late, much respected citizen, Mr. George Hay, who suggested the name "Ottawa" for the Capital, to the Hon. Thomas McKay, and it was afterwards adopted; he also designed the city's Coat of Arms in 1844, with its motto "Advance."

**Book Containing the Local Events.**—Glancing over this "Book" we find a full account of the "Great Fire" which visited Ottawa and Hull in April, 1900, when Hull was almost wiped out, a large part of Ottawa destroyed, and thousands made homeless. Again in 1904 a second great conflagration took place, when a large part of the same district was destroyed. Other fires recorded are: the burning of the Ottawa University in 1903, the Gilmore Hotel in 1906, the Sacred Heart Church in 1907, and the old historic St. John's in 1912.

We have a description of the reception to the Ottawa Contingent on their return from South Africa, in Nov., 1900, when the city was gorgeous in color, little flags and bunting on nearly every house, in honor of the returning heroes, and when 40,000 people of the Capital turned out to welcome Ottawa's portion of the brave men who won honor and fame in defence of the Empire. It was one long cheer, we are told, from the station to Parliament Hill, where addresses of welcome were presented. When the "word" came, June 2nd, 1902, that peace was restored in South Africa there was great joy in the Capital; again the streets presented a gala appearance, bells rang out the glad news, all classes rejoiced, even the children seemed to realize what the declaration of peace meant. A monument, the gift of 30,000 children of Ottawa and the Ottawa valley, was unveiled by Mayor Cook's little daughter in August, 1903, to the memory of the Ottawa soldiers who died for their flag, and are now sleeping peacefully under the South African Veldt. Every year since Miss Marjorie Cook has placed a garland of leaves on this Paardeberg Memorial.

Great was the city's sorrow when the sad news came of the death of Queen Victoria, Jan. 22nd, 1901. Its grief was expressed by a resolution of Council, and the whole city went into mourning. On Feb. 1st an impressive memorial meeting was held by the Women's Historical Society, and on the day of the funeral stores were closed, buildings draped, and solemn services held in the various churches.

The year following, in June, the time set for the coronation of King Edward, but postponed on account of his serious illness, again services were held in the churches, not of rejoicing, as it was at one time thought, but of intercession and supplication for the King's recovery. Coronation day, August 10th, 1902, was quietly observed by services in the churches, a military parade and illumination at night.

Then in a few short years we had to record the death of another beloved sovereign, when "Edward the Peacemaker" passed away, May 6th, 1910, and the city paid its last tribute to the ruler it loved. The

great gathering on Parliament Hill, at the burial hour, on May 20th, voiced Ottawa's deep sorrow.

At the time of the Coronation of His Majesty, King George V., June 23rd, 1911, there was great rejoicing. Twenty Ottawans went to London to form part of the Coronation troops. One realizes, when reading these "events," how closely united are joy and sorrow in the lives of a people.

It is interesting to read how Ottawa welcomed the Duke and Duchess of Cornwall and York when they paid their memorable visit to Canada in 1901, and the citizens of the Capital did all in their power to honor them. Their stay lasted from Friday, Sept 20th, till Tuesday, the 24th, during which time an elaborate programme of entertainment was carried out. There were grand illuminations of the Parliament buildings and grounds, Alexandra, Sappers and Dufferin bridges, and many public buildings, every evening. Their Royal Highnesses had the thrilling experience of running the "slides" at the Chaudière on a "crib," and were afterwards served with woodsman's fare at the Roekeliffe shanty.

It was a fine scene on Parliament Hill when the Duke of York unveiled the monument to Queen Victoria. The "Garden Party" given by their Excellencies, the Earl and Countess of Minto, at Government House on Saturday afternoon, when 1000 guests were present, was a brilliant affair, as was also the Reception in the Senate chamber on Monday evening, when Ottawans paid homage to their future King and Queen.

The Duchess bore away with her a handsome mink cape, the gift of the women of Ottawa, as a souvenir of her visit. Before leaving, their Royal Highnesses expressed to Mayor Morris the hearty appreciation of the entertainment provided for them by the City of Ottawa. They went as they came, amid the cheers of the people. Thousands greeted their entry into the city, and thousands wished them "God speed."

The arrivals and departures of our Governor's-General are always noted—a magnificent farewell being tendered Lord and Lady Minto, after a sojourn of six years in Canada, when they returned to England in Nov., 1904.

The next month a hearty welcome was given Earl Grey upon reaching Canada's Capital, where for seven years he made his home. In October, 1911, Ottawa said "farewell" with general regret to Lord and Lady Grey and their two charming daughters. "We shall never forget Ottawa's farewell, please thank the whole city," were the words of a telegram to Mayor Hopwell from Earl Grey from Quebec. Hardly has good-bye been said than the city is en fête to welcome another Governor, this time a Royal one. On Saturday, Oct. 14th, 1911, H. R. H. the Duke and Duchess of Connaught were royally welcomed. Thousands joined in the reception on Parliament Hill, when addresses were presented, and the whole route lined with cheering crowds.

In January, 1912, Her Royal Highness, Princess Patricia, arrived in

Ottawa, and in spite of the lack of public notice a large number gathered at the station to bid her welcome.

The Carnegie Library was opened to the public May 1st, 1906, when the great philanthropist himself honored the occasion with his presence and officiated at the ceremony, the citizens formally thanking him for his magnificent gift.

The opening of our beautiful Driveway was in July, 1904, when Sir Wilfred Laurier, Sir William Mulock, the aldermen of the city and other distinguished guests were tendered a complimentary drive by the Cabman's Association.

The foundation stone of Ottawa's greater University, to replace the one destroyed by fire, was laid in May, 1904, with befitting ceremonies.

The new Roman Catholic Archbishop of Ottawa, Mgr. Chas H. Gauthier, was enthroned with all due ceremony at the Basilica, Feb., 1911. The church was magnificently decorated and the function a very impressive one.

The Convention of New York Bankers held here last year was an "event" of international and historic importance, being the first time the Association had been taken out of its own territory. At the banquet tendered them by the Canadian Government during their stay, expressions of good will and hope for continued peace were heard on every side. James J. Hill, the American railway king, said, "Whatever may be the fate of the general movement among the nations, in favor of peace, those whose mother tongue is English will never again take up arms against one another"; and Premier Borden: "Let us hope that so long as the waters of the St. Lawrence flow, we shall be at peace with each other."

We find a number of noted personages have paid a visit to our city since 1900, among them being: Sir Edward Barton, Prime Minister of Australia; Prince Arthur of Connaught; Prince Fushimi, a distinguished visitor from Japan; His Lordship, the Bishop of London; Rudyard Kipling; Lady Aberdeen and Miss Asquith, daughter of the British Prime Minister; General Sir Ian Hamilton; the British Ambassador, Sir Cecil Spring-Rice, and Ex-President Taft, who visited Ottawa for the first time last winter (1913-14).

Accounts of the celebrations of the golden weddings of our older inhabitants have a place in the "Scrap-Book."

We are proud to record when Knighthood is conferred on any of our prominent men, or any honor which one worthy of it receives. And lastly, the passing away of our well-known fellow citizens, as they silently go, one by one, you will always find recorded in the Scrap-Book. But it would be impossible in this paper to mention the names of the many who in their lives have gained distinction, and worked for the welfare and advancement of our Capital City. The contents of the Scrap-Books are

only "history in the making." The "Events" which have been especially mentioned are by us of the present well remembered, but as time goes on they will become history for future generations, and will give a good idea of what Ottawa, the Capital of the Dominion, was like, and the doings of its inhabitants, at the beginning of the 20th century.

243 Daly Avenue, Ottawa.

## VI.

### THE HIGHWAY OF THE OTTAWA.

BY T. W. EDWIN SOWTER

The Highway of the Ottawa! What pleasure it is to give rein to the imagination and endeavor to reconstruct this old waterway as it appeared in the days of Champlain! What a glorious revelation it must have been to that grand old Frenchman when for the first time he passed up between the shores of the Ottawa! Unblemished by the arts of civilization, how appealing to the eye of the painter or poet must have been the majestic splendor of the savage wilderness! The shores of our great river, bordered by a vast primeval forest and chafed by the resistless rush of mighty falls and foaming rapids, where malignant and fierce-eyed Manitous and Okies glared out of their leafy lairs at the strange men with the pale faces, and the voice of the great Oki of our own Chaudiere Falls roared out his thunderous protest against the advance of a new culture upon his ancient domain.

How changed is all this to-day. The forest has almost disappeared before the axe and the brand, and in its place are green fields and prosperous towns. The voice of the locomotive has frightened the lives out of the malignant spirits and made them seek a more congenial habitat. Even the oki of "The Big Kettle" has lost prestige, as he now receives offerings of sawdust, instead of tobacco, as in the old days.

Our written history of the Ottawa begins with Champlain in 1613; but, long before European contact, the Indians themselves had prepared for us priceless ethnic records of their activities on the Ottawa, and anyone that wishes may read them to-day. These curious old manuscripts are no less than their ancient camping grounds, beach workshops and burial places that lie scattered along the shores of the Ottawa in great profusion. Here, by the old fire-places, where the fires have died out and the hearths grown cold, and their occupants long since departed, we may read much concerning the lives and activities of a now vanished people, before the coming of the white man. The Indians have also left records, in their places of sepulture, that reveal to us much of their past. In answer to the question as to what the camp-site reveals, it may be said that you find there various forms of arrowhead with which the Indian killed his game; the large arrowhead-shaped flint knife with which his better half skinned and cut it up; and the fragments of the earthen pot in which she cooked it for her lord and master.

The writer has in his collection the contents of a single grave found on Aylmer Island. The occupant was well provided with a plentiful sup-

ply of this world's goods, from an Indian standpoint. He had with him, among other things, an iron tomahawk of French make, a small copper kettle, a bone harpoon, three knives and five crooked knives. Among other things that his friends had put into his kit for his trip to the happy hunting ground, was a quantity of fringe made out of a white woman's hair. He also had with him a bone arrowhead that had been driven completely through a segment of his lumbar vertebrae, piercing the spinal chord and still remaining in position. Now, it seems easy to read this Indian's story. At some time in his career he had scalped a white woman, and used her hair for his personal adornment; but later on he had got what was coming to him—so to speak; for that identical portion of his transfixing backbone is at present reposing in the writer's cabinet, and it shows conclusively that its owner died by violence—and served him right.

For the benefit of those who take an interest in the ethnic history of the Ottawa and who may desire to do a little original investigation on their own behalf, a list of the principal camp-sites and burial places, of the Indians, between Ottawa and the Chats Falls, may be of some little service. They are as follows:

**Gilmour's Mills**—Mr. R. H. Haycock, of Ottawa, reports that in 1859-60 his father, the late Edward Haycock, built a residence on the site of Gilmour's Mill, in Hull. While making excavations for the foundation of a summer house, the workmen laid bare several ash-beds at a depth of from two to three feet below the surface. Amongst other things these beds contained Indian pottery in great abundance. It was customary with the Huron-Iroquois to place their fires in pits, which doubtless accounts for the pottery being found at such a depth.

**Gravel Pit, Laurier Ave., Hull**—One may observe, on approaching Hull, by the Alexandra bridge, an extensive gravel pit, between the E. B. Eddy Co's sulphide mill and the end of the bridge, and between Laurier Ave. and the river. This is the place from which the late Edward Haycock procured sand for building purposes on the eastern and western blocks of the departmental buildings at Ottawa. During the excavation of this bank a great many Indian relics were discovered, such as women's knives, arrowheads, tomahawks and pottery, but no description of the pottery is obtainable. Here, according to white and red tradition, many bloody encounters took place between parties ascending or descending the river.

**Squaw Bay, Tetreauville (Que.)**—The western shore of this bay is littered with worked flints, especially the southerly end which juts out into the river.

**Bell's Bay (Que.)**—This bay, near Fraser's Mill, is an old camp-site, where the writer found a stone celt and arrowheads. There is a considerable quantity of worked flints littered about the shore. A compacted mass of clay and sand, mixed with worked flints, beneath an old oak stump, about two feet in diameter, had been laid bare by the river. It was an old stump of a large tree, yet the arrow-makers of Bell's Bay

had flaked their flints where it stood long before that oak was even an acorn.

**Hotel Victoria (Aylmer, Que.)**—On the low gravelly flat, just west of the hotel wharf, the writer picked up a very finely made celt, and between that and the outlet of the creek several broken ones. Large fragments of unworked flint, ready for the arrow-maker, were also observed.

**Newman's Bay (Que.)**—This bay—called by Ottawa people Echo Bay—just below Queen's Park, has yielded more unworked flint than any other beach workshop on the Quebec side of Lake Deschênes. Some few fragments of pottery have also been found.

**Pointe aux Pins.**—This place was so named by the old voyageurs, and by this name it has always been known to the people of Aylmer, Que. As the pine forest has long since disappeared and a solitary elm stands out in bold relief on the shore, a wiseacre from Ottawa, some years ago, renamed the spot One-tree Point. It is needless to say that this changing of place names increases the difficulties in the way of historical and ethnological investigation, and should be discredited. Place names are sacred and should not be tampered with. However, Pointe aux Pins, which is now the site of Queen's Park, yields worked and unworked flints and arrowheads. One of the latter, picked up by the writer, is apparently very old, as a portion has been broken off, revealing a thick rind of weathered surface of a light buff color. This arrowhead is unique amongst those found on Lake Deschênes. Only one fragment of a similar kind of flint, unworked, is all that the writer has been able to discover, and this was at a spot higher up the river and not amongst the refuse in any of the beach workshops on the lake.

**Powell's Bay (Que.)**—Large pieces of unworked flint, together with flint chippings, have been observed at this bay and along the shore for a considerable distance up the lake.

**Raymond's Point**—This point is on the Ontario shore of Lake Deschênes, opposite Aylmer, and is by far the largest beach workshop and camp-site on the lake. From the point to upward of one hundred yards westward, as far as Smith's house, the bare calciferous sandstone shore is thickly strewn with worked flint and chippings of the same material. Arrowheads of several makes have been found at this point. Some have been fabricated from the black flint that is found, in great abundance, in the Trenton limestone at Hull and Ottawa, and are consequently of domestic origin; while others are of a lighter color and are similar to those found in the Huron country. Women's knives, celts, or stone tomahawks, are also found. A woman's knife picked up at this place by Mr. Jacob Smith, of the Interior Department at Ottawa, was made of dark Trenton flint. A similar and beautifully finished flint knife, presented to the writer by Mr. Louis Leroy, of Bryson,, and found at that place, is of light colored flint and is evidently of foreign make. Fragments of pottery are frequently picked up as they are washed by the rains out of the dark sandy loam at high water mark, above the rocky

beach. From what has been seen of these fragments the pottery seems to be referable to three distinct cultures—Algonkin, Huron and Iroquois; but this is only conjecture, as not enough has been procured to settle the matter.

**Snake Island Point.**—This point is high, dry and flat-topped, and admirably fitted by nature for a camp-site. On the side next to Snake Bay, to the south, it is fringed with large boulders, among which the ground is smothered with flint flakings. Geo. R. Fox, of Appleton, Wis., informs the writer that he has investigated numerous village sites, but does not recall one where he discovered any amount of chips near large stones, which would indicate the selection of such spots as workshop sites. Since hearing from Mr. Fox, the writer has often wondered whether these flakings may not have accumulated about the boulders before the wash of heavy rains, but has dismissed this idea for the reason that rain floods could not have moved them.

**Noël's Point.**—This point is only a short distance higher up the lake shore. Here we also get the boulders with the flint flakings lying about them, as at Snake Island Point.

**Flat Rock.**—On the 24th May, 1897, Aldos and David Pariseau discovered a cache of bullets at Flat Rock, near Wilson's Bluff, and just above the summer residence of the late Mr. A. H. Taylor, in the township of South March, Ont. They were found in the sand, in a few inches of water quite close to the shore, and eight hundred were taken from the cache, together with an Indian pipe with the head of some animal moulded or carved on the bowl. Some of these bullets are now in the writer's collection and would run about twenty-five to the pound.

**Pointe à la Bataille.**—This point is now shown on our maps as Lapot-tie's Point, a name of recent origin, and doubtless conferred upon it by some ox-witted yokel, who thought it should bear the name of its latest occupant rather than that which probably commemorated some tragic incident of a bygone age. The French-Canadian river-men, however, with much better taste, still retain the name by which it was known to the old voyageurs. Flints are found at this point, both worked and otherwise. Several years ago, Joseph Leclair, of Aylmer, discovered a large cache of bullets at Pointe à la Bataille. Mr. Leclair brought away nearly half a bagful, without exhausting the find. It does not appear credible that so large a quantity of ammunition would have been "cached" by hunters; but, judging from the name of the place, one inclines rather to the supposition that this store had some connection, in the past, with the movements of war-parties, either white or red, operating along Lake Deschênes.

Sand Bay, at the outlet of Constance Creek, in the township of Bolton, Carleton Co., Ont., is a deep indentation of the southern shore line of the Ottawa, extending inland about a mile. The entrance, or river front of the bay, is terminated on the east by Pointe à la Bataille and on the west by Big Sand Point.

**Big Sand Point.**—This point is a large dune of drifting sand with here and there a stunted pitch pine and in sheltered places a luxuriant growth of blueberries and poison-ivy. In the summer of 1912 one of the writer's sons discovered an Indian fire-place right on the top of this dune, on the side fronting on the river, in a clear space fully exposed to the action of the winds. The fire-place was about nine or ten feet in circumference and was filled with fine charcoal and sand to the level of the drifting sands of the dune. Overlying this ash-bed was an array of pottery fragments that had the appearance of having been arranged thereon for the inspection of future generations. The fire-place was dug out by hand and pieces of pottery were found all the way down to a depth of about two feet, but the bottom of the pit was not reached. The pottery is either Huron or Iroquois, but the writer is uncertain as to which of the two cultures it is referable.

William M. Beauchamp\* is of the opinion that "while the richer Iroquois obtained brass kettles quickly from the whites, their poorer friends continued the primitive art till the beginning of the 18th century at least."

In view of the above statement it appeared at first sight as if this old fire-place bore evidences of the last domestic catastrophe in an Indian household, about two hundred years ago, and that these evidences had not been obliterated by snow or rain or drifting sand in all that time, for this seemed to be the story: Many years ago, when this was an Indian camp, some bustling Indian woman, in hurrying up to get the dinner, snatched a pot of boiling water off the fire, burnt her fingers, dropped the pot, broke it, spilt the water and put out the fire, blamed somebody or something else for the accident and left her broken crockery and her fire-place with the orenda knocked out of them and a tabu on both. After a brief consideration, however, this theory was dismissed on account of its improbability for obvious reasons. A more reasonable supposition seemed to be that a Huron or Iroquois fire-pit, originally two or three feet in depth and filled with ashes, sand and broken kitchen utensils, had been abandoned at some remote period; and that since that time the winds had carried away some of the sand from the top of the dune, together with some of the upper part of the fire-place, thus winnowing the pottery fragments and leaving them accumulated as they were found.

According to the testimony of old residents in the neighborhood, human bones, and in one instance an entire human skeleton, have been washed out of the sands near this dune.

Many uncanny and gruesome stories are associated with the sand mound. They have been transmitted from father to son, from the time of the old French voyageurs.

**Wendigo Mound.**—According to one of these traditions this sand mound was, in the old days, occupied by a family of Wendigoes. These

\*Earthenware of the New York Aborigines. Bulletin of the New York State Museum, Vol. 5, No. 22, October 1898, p. 80.

people were a source of constant annoyance to the dwellers on Lake Deschênes, but more particularly to an Algonkin camp on Sand Bay, quite close to the headquarters of these malignant beings. The old man, who possessed the gigantic proportions of his class, was frequently seen wading about in the waters of the bay, when on foraging expeditions after Indian children, of whose flesh, it is said, he and his family were particularly fond. The family consisted of the old man and his wife and one son. The bravest Indian warriors had, on several occasions, ambushed and shot at the old man and woman without injuring either of them; but, by means of sorcery, they eventually succeeded in kidnapping the boy, when his parents were away from home. Holding the young hopeful as a hostage, they managed to dictate terms to his father and mother and finally got rid of the whole family.

The writer heard this story for the first time one night while camping at the Chats Fall. It was told at the camp fire by a half-breed descendant of the Indians who had the unpleasantness with the Wendigoes. Though far from believing that any sane Indian of the old school would have laid violent hands on even a young Wendigo, the writer is quite satisfied that had one of those legendary monsters of the American wilderness loomed suddenly out of the dark shadows of the forest and approached the camp fire, the poor half-breed who was "spinning the yarn" would have taken to his canoe without a moment's hesitation and left the Wendigo in undisputed possession of the island.

**Fight at Big Sand Point.**—Life on the old Ottawa, during the greater part of the seventeenth century, was always strenuous, and frequently dangerous. On this rugged old trade route, during the French régime, the fur-traders from the interior, both white and red, experienced many vicissitudes while conveying the products of the chase to the trading posts on the St. Lawrence. Shadowy traditions of those days of racial attrition have been transmitted from father to son, from the old *coureurs de bois* and their Indian confreres, to their half-breed descendants of the present day. These traditions account for the human bones washed out some years ago at the foot of the old Indian portage at the Chats Falls, and those that lie scattered about at Big Sand Point, lower down the river; also, for quite a number of brass kettles found at one time near the mouth of Constance Creek; for the Indian burials on Aylmer Island, as well as for the presence of arrowheads, stone celts, flint knives and other native implements in the gravel beds at the foot of the Chaudière; and, without pausing to consider whether these relics of a departed people are not the ordinary litter of Indian camp-sites, or the disinterred bones from Indian burial places, tradition, as usual, takes charge of them as the ominous tokens of a period of violence.

A great many years ago, so the story goes, a party of French fur-traders, together with a number of friendly Indians, possibly Algonkin and Huron allies, went into camp one evening at *Pointe à la Bataille*. Fires were lighted, kettles were slung and all preparations made to pass the night in peace and quietness. Soon, however, the lights from other

camp fires began to glimmer through the foliage, on the opposite shore of the bay, and a reconnaissance presently revealed a large war-party of Iroquois in a barricaded encampment on the Wendigo Mound at Big Sand Point. Well skilled as they were in all the artifices of forest warfare, the French and their Indian companions were satisfied that something would happen before morning. It was inevitable that the coming night would be crowded with such stirring incidents as would leave nothing to be desired in the way of excitement. There lay the Iroquois camp, with its fierce denizens crouched like wolves in their lair; though buried in the heart of the enemy's country, yet self-reliant in the pride of their past warlike achievements, whose military strategy had rendered them as invulnerable as the gloom of the oncoming thundercloud, and as inexorable as the fate of the forest monarch that is blasted by a stroke of its lightning.

Now, the golden rule on the Indian frontier in those strenuous times was to deal with your neighbor as you might be pretty sure he would deal with you, if he got the chance. Of course it was customary among the Indians to heap coals of fire on the head of an enemy; but as it was the usual practice, before putting on the coals, to bind the enemy to some immovable object, such as a tree or a stout picket, so that he was unable to shake them off, the custom was not productive of much brotherly love. Moreover, when the success of peace overtures could be assured only to the party that could bring the greater number of muskets into the negotiations, it will be readily understood why the French, who were in the minority, did not enter into diplomatic relations with the enemy. On the contrary, it was resolved to fight, as soon as the opposing camp was in repose, and attempt a decisive blow from a quarter whence it would be least expected, thus forestalling an attack upon themselves, which might come at any time before the dawn. The French and their allies knew very well that if their plans miscarried and the attack failed, the penalty would be death to most of their party, and that, in the event of capture, they would receive as fiery and painful an introduction to the world of shadows as the leisure or limited means of their captors might warrant.

Towards midnight, the attacking party left Pointe à la Bataille and proceeded stealthily southward, in their canoes, along the eastern rim of Sand Bay, crossed the outlet of Constance Creek and landing on the western shore of the bay advanced towards Big Sand Point through the pine forest that clothed the intervening sand hills, as it does to-day. This long detour, of about two miles, was no doubt a necessity, as, on still nights the most trifling sounds, especially such as might have been produced by paddles accidentally touching the sides of canoes, are echoed to considerable distances over the bay.

The advance of the expedition was the development of Indian strategy; for, by getting behind the enemy, it enabled the French and their allies to rush his barricades and strike him in the back, while his sentinels and outliers were guarding against any danger that might approach from the river front.

The attack was entirely successful, for it descended upon and enveloped the sleeping camp like a hideous nightmare. Many of the Iroquois died in their sleep, while the rest of the party perished to a man in the wild confusion of a midnight massacre.

Such is the popular tradition of the great fight at the Wendigo Mound at Big Sand Point, and the bones that are found in the drifting sands at that place are said to be the remains of friend and foe who fell in that isolated and unrecorded struggle.

This story seems to carry us back to that period of conflict which was inaugurated by the onslaught of the Iroquois upon the Huron towns, which was continued with unparalleled ferocity and terminated only by the merciless destruction of a once powerful nation and the final dispersion of its fugitive remnants, together with such bands of Algonkins as happened to come within the scope of that campaign of extermination. It is supposed that our tradition has reference to one of the many scenes of bloodshed that reddened the frontiers of Canada, while the Confederates were thus making elbow-room for themselves on this continent, and were putting the finishing touches on the tribes to the north of the Great Lakes and the St. Lawrence. At this time all the carrying-places on our great highway were dangerous, for war parties of fierce invaders held the savage passes of the Ottawa, hovering like malignant okies amidst the spray of wild cataracts and foaming torrents, where they levied toll with the tomahawk and harvested with the scalping-knife the fatal souvenirs of conquest.

**The Chaudière.**—Let us now descend the river, as far as the Chaudière, and we find ourselves once again in the mocassin prints of the Iroquois; for those tireless scalp hunters were quite at home on the Ottawa, as well as on its northern tributaries. War expeditions of the Confederates frequently combined business with recreation. They would leave their homes on the Mohawk, or adjacent lakes, and strike the trail to Canada, hunt along the Rideau Valley until the spring thaws set in, and manage to reach the Ottawa in time for the opening of navigation. Then they loitered about the passes of the Chaudière and waited, like Wilkins Micawber, for something to turn up.

While waiting thus for their prey to break cover, from up or down the river, they devoted their spare time to various occupations. To the oki, whose thunderous voice was heard in the roar of the falls, they made sacrifices of tobacco. While the Mohawks and Onondagas each gave a name to that cauldron of seething water which is known to us as "The Big Kettle," the Mohawks called it Tsitkanajoh, or the "Floating Kettle," while the Onondagas named it Katsidagwehniyoh, or "Chief Council Fire."

Iroquois tradition assigns to Squaw Bay, called also Cache Bay, at Tetreauville, the reputation of having been one of the favorite lurking places of these war-parties. It must have been, in those days, an ideal spot for an ambush or concealed camp, as it occupied, for the purposes of river piracy, as commanding a position on the old trade route as does

one of our present day toll-gates for controlling the traffic on a turnpike road.

Joe Canoe, the chief of the Dumoine River Iroquois, told one of the writer's sons that in the old days his people were in the habit of hiding in Squaw or Cache Bay and capturing canoes coming down with furs or going up with merchandise. They plundered the canoes and scalped their occupants. It is also said that Brigham's Creek, called also Brewery Creek, a narrow channel of the Ottawa, was the old Indian portage route for overcoming the rapids of the Chaudière. It may be seen by glancing at a map of the city of Hull, that parties of Algonkins or Hurons, as the case may have been, upon emerging on the main river at the head of this portage, were liable at any time to receive a warm welcome from some surprise-party of Iroquois visitors at the Squaw Bay camping ground. If descending the rapids of the Little Chaudière, they faced a far worse predicament, as, unable to escape or defend themselves in the swift current, they would have been caught like passing flies in a spider's web.

It is said that Indian cunning was at length successful in evolving a plan to outwit the military strategy of the Iroquois. As the old portage route had become dangerous it was resolved to have an alternative one. In ascending the Ottawa, this new portage started from the western shore of Brigham's Creek at a point now occupied by the International Cement Works. It continued thence in a westerly direction, skirting the foot of the mountain and passed down Breckenridge's Creek to the outlet of that stream into Lake Deschênes. It was rather a long portage of about a dozen miles; but Algonkin and Huron had learned in the school of bitter experience that, in their case, the longest way round was the shortest way home. An aged squaw, who lived in Aylmer many years ago, spoke of a similar forest trail that extended, in the early days, from a point on the Gatineau, near the site of Chelsea, thence by way of Kingsmere to a point on Lake Deschênes, now occupied by the town of Aylmer.

**Ossuary at Ottawa.**—Residents of the Capital will be surprised to learn that a Feast of the Dead, probably similar to that witnessed by Brébeuf at Ossossane, was once held on the spot now occupied by the Capital brewery, within the angle formed by the north line of Wellington and the west line of Bay streets. The proof may be found in an article in the Canadian Journal, Vol. 1, 1852-1853, by the late Dr. Edward Van Courtland, which describes an Indian burying ground and its contents at Bytown (Ottawa) in 1843.

Dr. Van Courtland states that in 1843 some workmen, who were digging sand for mortar for the old suspension bridge, unearthed a large quantity of human bones. He immediately hurried to the spot and found that the contents of an Indian burying ground were being uncovered. The doctor continues: "Nothing possibly could have been more happily chosen for sepulture than the spot in question; situated on a projecting point of land directly in rear of the encampment, at a carrying-place, and

about half a mile below the mighty cataract of the Chaudière, it at once demonstrated a fact handed down to us by tradition, that the aborigines were in the habit, when they could, of burying their dead near running waters. The very oldest settlers, including the Patriarch of the Ottawa, the late Philemon Wright, and who had located nearby some thirty years before,\* had never heard of this being a burying place, although Indians existed in considerable numbers about the locality when he dwelt in the forest, added to the fact that a huge pine tree growing directly over one of the graves, was conclusive evidence of its being used as a place of sepulture long ere the white man in his progressive march had desolated the hearths of the untutored savage." After two days' digging the results were as follows:

"One large, apparently common grave, containing the vestiges of about twenty bodies of various ages, a goodly share of them being children, together with portions of the remains of two dogs' heads; the confused state in which the bones were found showed that no care whatever had been taken in burying the original owners, and a question presented itself as to whether they might not have all been thrown indiscriminately into one pit at the same time, having fallen victims to some epidemic, or beneath the hands of some other hostile tribe; nothing, however, could be detected on the skulls to indicate that they fell by the tomahawk, but save sundry long bones, a few pelvi, and six perfect skulls the remainder crumbled into dust on exposure to the air; in every instance the bones were deeply colored from red hematite which the aborigines used in painting, or rather in bedaubing their bodies, falling in the form of a deposit on them when the flesh had become corrupted. The material appears to have been very lavishly applied from the fact of the sand which filled the crania being entirely colored by it. A few implements and weapons of the very rudest description were discovered, to wit: 1st, a piece of gneiss about two feet long, tapering, and evidently intended as a sort of war-club; it is in size and shape not unlike a policeman's staff. 2nd, a stone gouge, very rudely constructed of fossiliferous limestone; it is about ten inches long, and contains a fossil leptina on one of its edges; it is used, I lately learned from an Indian chief, for skinning the beaver. 3rd, a stone hatchet of the same material. 4th, a sandstone boulder weighing about four pounds; it was found lying on the sternum of a chief of gigantic stature, who was buried apart from the others, and who had been walled around with great care. The boulder in question is completely circular and much in the shape of a large ship biscuit before it is stamped or placed in the oven; its use was, after being sewed in a skin bag, to serve as a corselet and protect the wearer against the arrows of an adversary. In every instance the teeth were perfect and not one unsound one was to be detected, at the same time they were all well worn down by trituration, it being a well known fact that in Council the Indians are in the habit of using their lower jaw like a ruminating animal, which fully accounts for the peculiarity. There were no arrowheads or other weapons discovered."

\* Philemon Wright, with 25 followers arrived at the site of the present City of Hull, on the 7th of March, 1800.

It will be seen from the foregoing that the worthy doctor had witnessed the excavation of a small ossuary, bone-pit or communal grave, such as are found in the Huron country in western Ontario. When the doctor raises the question as to whether the bodies had not all been "thrown indiscriminately into one pit at the same time," he suggests a mode of sepulture that was actually observed by Brébeuf at the Huron Feast of the Dead at Ossossané in 1636.

**Ossuary on Aylmer Island.**—Another small ossuary was uncovered some years ago, on Aylmer Island, called also Lighthouse Island, in Lake Deschênes, when the foundation for the new lighthouse was being excavated. The writer was not present at the exhumation of its contents, but the light-keeper, Mr. Frank Boucher, informed him that the skeletons were all piled together, indiscriminately. It is difficult to estimate the number of bodies interred in this grave, but it yielded about a wagon load of bones. No entire skulls were found but the writer observed that the teeth in all the jawbones were sound, in some cases being worn down quite flat without the least sign of decay. Some single graves have also been found on this island. The presence of this ossuary is also at once suggestive of the celebration, on Aylmer Island, of the weird mortuary rite called the Feast of the Dead.

Embowered in the solemn grandeur of a mighty forest of gloomy pines, old Lac Chaudière—our Lake Deschênes—was a fitting theatre for that weird ceremonial. Resting on the old Algonkin camping ground at Pointe aux Pins—now Queen's Park—some roving *coureur de bois* might have seen this great sheet of water fading away into the vast green ocean of foliage to the south, and witnessed from his point of vantage the uncanny incidents of the savage drama. From various points on the lake he might have seen, converging on the island, great war canoes freighted with the living and the dead, the sad remnants of a passing race. He might have heard the long drawn-out wailing cries of the living, as they floated out across the water, outrivalling the call of the loon, or the dismal and prolonged howl of the wolf, as they echoed through the arches of the forest; and, as the island rose before his vision, tenanted with its grotesque assemblage of dusky forms, engaged in the final rite of sepulture, he might have mused upon the mutability of human life, in its application to the red denizens of the wilderness, whether in the extinction of a clan, or the dissolution of a tribe or confederation.

But where, to-day, are these people whose reverence for their dead was one of the first rays of light stealing in upon their darkness from the coming morning of a new day? Who felt even in the wind as it played over their brows when spent with toil the caress of a good spirit? Who, longing for that which they knew not, made gods of the blind forces of nature and reached out to them, in their direst need, for assistance and consolation? Did they migrate, finally, to join their kindred in their distant resting places? Did they fade away, by adoption, into other tribes? Or, were they absorbed by the red cloud of massacre, to disappear forever in the darksome shadow of the illimitable wilderness?

## VII.

### THE COUNTY HISTORY AS A FACTOR IN SOCIAL PROGRESS.

BY MISS EDITH L. MARSH

No book can give a more vivid picture of the lives of the people who are actually working out the evolution of the country than the county history. It brings one in touch with the significant details in the lives of the pioneers and the lives of the men of to-day. In the county history more than any other book we should be able to trace the social systems under which the people of the different generations have lived and to see the effect they have had upon the progress of the country.

The histories that have been written of our country deal with great events and with great men, and there is little space, even in the chapters devoted to social conditions, for the individual pictures that strike home to the reader. The history of the country, picturesque though it may be, is bound to have a far-away sound to those of us who are living our quiet lives in remote parts of the province. But the county history is all our own, is the life we know. A single glimpse of a familiar scene will arouse emotions that remain unmoved by thrilling tales of great events far away. The nearer home the historian brings his readers the more deeply he impresses them.

The social conditions of the red men who had their homes in the different counties of Ontario before the white man claimed the land has a message too often overlooked. They lived under a communal system. With them the productions of the earth were common property. Such a thing as one starving while another had food stored away or monopoly of game was unknown among friendly bands. They were all children of the Great Spirit, and the food that had been given for their needs must be shared by all. What would these people think of such a condition of individualism as exists to-day in many of our cities?

It is a question whether history has ever done justice to the Indians. Certainly many of the children who study history at school and who read Indian stories have exaggerated ideas of the worst side of Indian life and know little or nothing of their better qualities. They have had the white man's version of the red man. In their histories the Indian himself has not spoken. It is important that justice should be done the Indian, not merely for the sake of the Indian, but because of the bearing it has upon the future.

The primitive Indian was a more honest being than modern methods of life have made of the white man. It was a missionary from the far north who declared that when someone asked the Indians there if it would

be safe to leave some supplies in a certain place, they said, "Why yes, there is not a white man within fifty miles."

A few years ago the sister of the Methodist missionary on Christian Island told of witnessing a very striking mirage while driving with a party of friends somewhere in Parry Sound District. They were miles back from the shore, yet suddenly the Georgian Bay appeared just a few yards ahead. There was a little child four or five years old in the party who was fast asleep. Curious to know whether she too would see what they saw they awoke her and she cried with fright and begged them not to drive into the water. Had that been some young Indian brave, who knew nothing about mirage, instead of white people who understood something about such an atmospheric condition, and he had returned to his home and told some explorer that when far away in a certain direction he had come upon a great unknown body of water, and the explorer, scenting the glory of discovery, induced the brave to guide him to it only to find that no such body of water existed, the Indian would have been a great liar, possibly a sufficiently great liar to have branded his whole tribe.

Fortunately there are some records of Indian life left by the Indians themselves. Assikinaack, an Ottawa Indian, in writing of his people who in very early days had their homes in the valley of the Beaver River, says that while in the villages they each had their homes, the hunting grounds were common property and also the game that was brought in, and he places much stress upon the fact that children were taught to be honest and to respect the old.

Rev. Dr. Maclean, writing of the Iroquois in "Canadian Savage Folk," says that hospitality is a common virtue among them and that they treat strangers with great respect, preparing for them venison, maize, or other native foods in great abundance. The writer might have gone on to say that the Indians do not ask the stranger who he is, do not consider the cut of his coat or how much property he owns. It is enough for them that he is one of the children of the Great Spirit, and the greater his need the greater their care in providing for him. Condescending charity, such as we hear so much about to-day, was unknown among them. Would they not hold us in contempt if they could see us throwing open our doors to those who need nothing and closing them to those in want?

In reading the letters and speeches of Joseph Brant one wonders whether any statesman of the white race could have a more disinterested desire for the welfare of his people. In his letters the communal ideas of the Iroquois are frequently referred to.

In the history of the County of Bruce, by Norman Robertson, one of the speeches made by a chief at the time of the signing of the treaty by which the Indians surrendered their title to the tract of land comprising the original County of Bruce, expresses the Indian idea of the white man's individual rights. (Robertson's Hist. of Bruce, p. 3.)

In the lives of the pioneers who followed the Indians were many

incidents which show the noble spirit of the builders of the Dominion. In the histories of the loyalist settlers are the well known stories of the historic beef bone that was passed from house to house that it might give each settler's soup a taste, and the story of the bees, where help was given one another, and story after story of the banding together of the settlers to assist, with no expectation of pay, a more unfortunate neighbor. All these show that early settlers understood that on each man's well being depended the future of the country. They lived more in accordance with the communal system of the red men than we do to-day. Little by little this has been disappearing, giving place to selfish individualism.

With that spirit of the early days has gone too much of the knowledge of the wild herbs which the settlers obtained from the Indians. An old gentleman living in Toronto, a member of the York Pioneers, remarked how very little of this had been preserved in history, and he told of an incident worthy of record. It seems that one day when a mere boy he was accompanying a well-to-do early settler in a walk through the woods on his own farm. The farmer asked if he had ever seen Indian glue. The boy replied that he had not. "Then I can show it to you," the farmer replied. When they had walked a little farther he found a stalk, apparently dead. He pulled it up, rubbed it in his hands, then breaking a chip of wood in two he rubbed the bruised stalk against the broken edges and put them together again. In a few minutes he handed it to the boy and told him to try to break it apart again. The boy tried with all his might but the Indian glue held it firm. This plant the farmer explained was dormant through the summer and for that reason very difficult to find.

The old gentleman who told the story said that though he had inquired again and again he had never met with any one who could remember having seen that plant, and he added that when the spirit of competition possesses the people there is little thought of preserving for future generations the wild things that were provided for their use, and some day they will awaken to the fact that they must labor in the heat and the dust to produce a substitute for that which would have grown all ready for use in the cool woods.

Such stories told in local history might make us more careful of the wild things we have left, our game, our birds and our bits of forest which now we try to protect against ourselves by legislation.

The passenger pigeons would have adapted themselves to the changed condition of the country if they had been allowed to live. It was not the so-called savage that exterminated these birds. They thought of the future, but the civilized man killed them off until not one was left, and now he would gladly give a thousand dollars for a single pair. It sounds ludicrous, but it is perfectly true.

In the history of Simcoe County, I read of the little coffee mill that one of the settlers had taken in his scant household outfit to his home in the backwoods and how during the long season of the year when the

Holland River was so swollen with floods that it was impossible for the settlers to cross it and reach Newmarket where was their nearest grist mill, they would come from miles round to grind a few quarts of grain in the little coffee mill and thus ward off starvation. I can see those people yet going back with their little bags of grain. When the historian gives in a few vivid lines such a picture of early conditions it not only makes a lasting impression, but it starts us thinking, and all sorts of comparisons come up between that day and the present time. As that picture lingers in the mind one wonders whether if the man with the coffee mill had lived to-day he would not have demanded an exorbitant amount of grain for the use of the mill and when the flood was over and the farmers once more independent of his mill he would have had a large proportion of their hard earned crops. That sort of thing is creeping into almost every county now.

In one county is a co-operative apple house, that is, a so-called co-operative apple house. The farmers bought stock in the building with the understanding that they would have a storehouse for their apples until they could market them to better advantage. Then they put up a little more money to buy out a cooper shop that they might always have barrels. The scheme looked ideal. But there was an undercurrent that was kept from them until they had paid their money. The result was that the farmers received no benefit at all and one man was made rich.

It is needless to go into detail; everyone knows how that sort of thing is done. It is very easy for a man to make money buying apples when he has at his disposal an apple house and a cooper shop paid for with the money of the farmers. To-day he wears a high collar, rides in his motor car, and is a pillar in the church, while the men who planted the orchards have the choice of leaving their apples lying in piles on the ground or accepting what the buyers choose to give them. Usually they sell them for a dollar or a dollar and a half a barrel on the trees and team them down to the town in the bargain, up hill and down hill, through the cold and storm of November on the Georgian Bay, and if the man of the high collar and the apple house passes them on the way, the chances are he does not so much as stop to pass the time of day.

It is the county historian who can show how gradually the spirit of the early days which laid the foundation of our Dominion has been passing away, and by stating facts as they are can open our eyes to the dangers of the present. A time will come when we have put the power of money in the place where it belongs, when we have ceased to honor men for their wealth until we know how it has been obtained, when men can no longer buy their way into public favor and social prestige. A system that allows monopoly to dispossess the tiller of the soil can never tend towards national greatness.

The county history can do more than any other force to bridge the gulf of inequality that lies between the communal system of the Indians and the early settlers and a grand co-operative social system that is to come. Such a future is not a mere vision. For generations the great

leaders of thought have realized that our competitive system is too wasteful. They have seen that many are struggling with poverty, some in a starving condition, while the few can throw away what would keep a multitude in plenty, and they know that in time we must have a more just and economical system of production and distribution. Nearly four hundred years ago Sir Thomas More wrote his Utopia. In more recent days William Morris tried to carry out in his own factory Utopian ideas, and his "News from Nowhere," which, though not practical but merely a fanciful dream, yet shows that under proper distribution a comparatively small amount of labor will produce not only necessities but luxuries for all.

A story is told of an Indian chief who heard that in a large and wealthy city a child died from lack of proper food. Meeting a white man of his acquaintance he expressed his disapproval of such a condition of affairs. The white man said in extenuation that they did not know of the child's condition. The chief replied that he had always understood the white man was an intelligent being, and an individual of any intelligence whatever would know that under the system of living they had made for themselves such things must happen. Might not the Indian exclaim at our claim to intelligence?

A time will come when we shall live nearer the brotherhood of man and then happy home life will be the privilege of every child. When that time comes we shall not require laws to protect the timid wild things that have made their homes among us.

The county history that helps to straighten out our distorted ideas of the proportion of things does a great work for our social progress. We look back with consternation at much that took place in the far away days of our history, but may not those who come after us look with equal consternation at the conditions we countenance to-day? The goal of our evolution is upwards.

"No wind can drive our bark astray  
Nor change the tide of destiny."

## VIII.

### THE RUSH-BAGOT AGREEMENT OF 1817.

BY E. H. SCAMMELL

At the outset I desire to express my indebtedness to my friend Dr. J. M. Callahan, President of the West Virginia University, whose work on *The Neutrality of the American Lakes* has been my chief source of information.

We are justly proud of the magnificent St. Lawrence, Queen of all rivers, which empties into the ocean the waters of our great inland seas. This river has played no small part in the development of Canada; on her bosom floated the **primitive ships of the early pioneers**, and, later, the hearts of oak of contending nations. Designed by nature to be a great commercial highway, it is only within the memory of living man that she has entered into this heritage.

The lakes which feed this river have also been the theatre of a series of historic conflicts between rival fleets, struggling for mastery. The limits of this paper will not allow me to refer to the influence of the Great Lakes or of the St. Lawrence on the development of this country, nor can I deal with such fascinating themes as the early story of the Hudson's Bay Co., or the intrepid Champlain, or the war with France, while only a brief reference is possible to the war of 1812.

In that unfortunate conflict Canadian and British forces were victorious on land, but our primitive navy suffered several reverses on our inland seas. Many felt that it would be necessary as a precaution against a further out-break of hostilities to build and maintain an adequate naval defence. On the other hand there were those who considered mutual disarmament a better guarantee of peace than preparedness for war.

During the negotiations which led up to the signing of the Treaty of Ghent on the 24th day of December, 1814, much was said concerning the control of the Great Lakes, and in the Parliamentary and Congressional debates, both sides urged that their own absolute control would be essential to the maintenance of peace. Munroe, then Secretary of State for the United States, on Jan. 18th, 1814, wrote that "Experience has shown that Great Britain cannot participate in the dominion and navigation of the lakes without incurring the danger of an early renewal of the war." On the other hand many in England were proposing a boundary division farther south than the lakes. Nathaniel Atcheson, an English writer, in an article of March 2nd, 1814, on "Points to be discussed in

treating with the United States," said that the great feature of the new line should be "exclusion of the Americans from navigation of the St. Lawrence, and all the conglomeration of tributary seas and waters. They are the natural patrimony of the Canadas. Water communications do not offer either a natural or secure boundary. Mountains separate but rivers approximate mankind." "Hence," said he, "the prominent boundary should be the heights of land separating the respective territories." This would have given to England Lake Champlain, all of the Great Lakes, and a considerable amount of territory south of the lakes.

On the other hand, the American idea was that the boundary should run from Nova Scotia, southwesterly, west, and northwesterly to Lake Nipissing, from there west along to the Mississippi. If the source of the Mississippi had been as far North as the Lake of the Woods, as it was supposed to be, Great Britain would, by this line, have been excluded from all the lakes except Superior.

It is clear from the records of the Treaty negotiations at Ghent, that Lord Castlereagh, the British Foreign Secretary, from the first desired to prevent a contest for naval ascendancy upon the lakes. In his general instructions to the British Commissioners there is no mention of the subject of naval vessels on the lakes, but in a draft of "instructions relative to the boundaries of Canada," which is marked NOT USED, there is at the close: "N. B. In order to put an end to the jealousies which may arise by the construction of ships of war on the lakes, it should be proposed that the two contracting parties should reciprocally bind themselves not to construct any ships of war on any of the lakes; and should entirely dismantle those which are now in commission, or are preparing for service."

This unused draft is not dated, but it was probably written in July, 1814. For some reason it was considered expedient to make a less liberal proposition upon this subject. By August it appeared to Lord Castlereagh that a boundary through the middle of the lakes, with the right of each country to arm both on water and shore, would tend to create a "perpetual contest for naval ascendancy, in peace as well as in war." He, therefore, thought it necessary for the sake of peace and economy to decide to which power these waters should, in a military sense, exclusively belong. In his instructions to the British Commissioners on Aug. 14, he said:—"Upon the point of frontier you may state that the views of the British Government are strictly defensive. They consider the course of the lakes from Lake Ontario to Lake Superior, both inclusive, to be the natural military frontier of the British possessions in North America."

It appears that the first definite idea of disarmament on the lakes was made by Mr. Gallatin, one of the American representatives, at Ghent, on September 6th, 1814, when the negotiators seemed to have arrived at a deadlock. Although we find one of his co-representatives considered this question outside the pale of their instructions, Mr. Gallatin proposed to refer the matter to his Government. A letter dated October 26th, 1814, to Mr. Munroe, from Mr. Gallatin, is still in existence.

It says, "The right of preserving our naval forces on the lakes to any extent we please is a *sine qua non* by our instructions. Suppose the British proposed mutual restriction in that respect either partial or total, should we still adhere to the *sine qua non*?" No reply to this note has been found, but about the same time Gouverneur Morris, a prominent American, who had been desirous for peace and not desirous for Canada, also suggested an idea for disarmament but solely on the ground of economy. Writing to a friend, he said, "It would be wise to stipulate that neither party should have ships of war on the lakes nor forts on their shores, both being an idle and useless expense."

This discussion seems to have been the genesis of the Rush-Bagot Agreement. The Treaty of Ghent was ratified by the United States on February 17th, 1815, and ten days later the President was authorized "to cause all armed vessels of the United States on the Lakes to be sold or laid up, except such as he may deem necessary to enforce proper execution of revenue laws, such vessels to be first divested of their armament, tackle and furniture, which are to be carefully preserved."

There does not seem to have been any marked activity to put this act into operation. At this time extremely bitter feelings still prevailed along the lake shores and there were numerous events which required careful diplomatic handling between the two governments. It was felt, however, that either both countries would have to increase their naval armament or to agree to mutual disarmament. On November 16th, 1815, Secretary Munroe wrote to John Q. Adams, who was at this time Minister of the United States to Great Britain:

"It is evident, if each party augments its force there, with a view to obtain the ascendancy over the other, that vast expense will be incurred and the danger of collision augmented in like degree. The President is sincerely desirous to prevent an evil which it is presumed is equally to be deprecated by both governments. He, therefore, authorizes you to propose to the British Government such an arrangement respecting the naval force to be kept on the lakes by both governments as will demonstrate their pacific policy and secure their peace. He is willing to confine it, on each side, to a certain moderate number of armed vessels, and the smaller the number the more agreeable to him; or to abstain altogether from an armed force beyond that used for revenue. You will bring this subject under the consideration of the British Government immediately after receipt of this letter."

These instructions resulted in an interview between Mr. Adams and Lord Castlereagh on Jan. 25th, 1816. Mr. Adams' proposal was well received by the British Minister, who said that everything beyond what was necessary to prevent smuggling was calculated only to produce mischief; but he was cautious and required time to ascertain whether any ulterior motive lay beyond the proposition. He proposed to submit the matter to his government for consideration, and the interview closed without any indication of the British attitude being given. The debates in Parliament gave little evidence that the proposal would be considered.

They were upon the principle of preserving peace by being prepared for war. Many speeches of a jingo nature were made and one of the Lords of Admiralty told the House of Commons that "bumboat expeditions and pinchbeck administrations would do no longer for Canada; that Englishmen must lay their account for fighting battles in fleets of three-deckers on the North American Lakes." Notwithstanding this adverse Parliamentary attitude, Lord Castlereagh seems to have carried his point, and on April 15th he informed Mr. Adams that the British Government was ready to meet the proposal of the United States, "So far as to avoid everything like a contention between the two parties which should have the strongest force" on the lakes, adding that they had no desire to have any ships in commission or active service except what might be needed to convey troops occasionally. At this time Adams did not feel like concluding the arrangement without further instructions, and it was agreed that the negotiations should be transferred to Washington and that authority be vested in Mr. Bagot, the British Minister to the United States, to act for Great Britain.

After his interview with Mr. Adams, Lord Castlereagh was prompt in notifying Mr. Bagot of his power to act in the matter of arranging naval forces, as well as the matter of fisheries. When the news reached America of the apparently sudden change in the attitude of the British Government there was some speculation as to the probable cause. Was the prosperity of England on the decline? Or was England acting from purely humanitarian motives? Or did she fear some new trouble?

Then began a series of interviews and an amount of correspondence between Mr. Bagot and the American authorities which ended in a letter from Secretary Munroe, dated August 2nd, 1816, in which he set forth a general proposal for disarmament and the maintenance of neutrality on the Great Lakes which was afterward included almost word for word in the Agreement. It was necessary for both sides to be perfectly assured of each other's bona fides. Further, Mr. Bagot wished to be absolutely certain that he had power to agree to a specific number of ships as a minimum. In the course of these negotiations inquiries were made by both sides, as to the respective strengths of rival fleets. According to the report furnished to the American authorities by Mr. Bagot, the British force, on September 1st, 1816, was twenty-seven boats, capable of carrying over 300 guns. Some of these had been condemned as unfit for service, but two 74 gun ships were on the stocks, and one transport of 400 tons. According to the report from Secretary Munroe, the United States' force was about the same, viz.: 22 boats capable of carrying over 350 guns. Several of these ships were either laid by or dismantled, but two 74 gun ships were on the stocks.

Owing to the time taken in the transmission of instructions, and the necessity for consultation with the British authorities, the reciprocal and definite reduction of the naval force on the lakes did not occur until after Munroe had become President. H. R. H. the Prince Regent had agreed to Munroe's definite proposition of August 2nd, 1816, and Castlereagh so informed Mr. Bagot on Jan. 31st, 1817.

Mr. Bagot notified Mr. Rush, who was acting as Secretary of State until Mr. Adams could arrive from London, and, on the 28th and 29th of April, 1817, a formal agreement was entered into by an exchange of notes. This agreement at once became effective. There is no evidence that the British Government ever gave to it the formalities of a treaty, and it was not until April 6, 1818, nearly a year after its enactment, that it was submitted by President Munroe to the Senate at Washington; it was proclaimed by him on April 28th. The exact wording is as follows:—

“The naval force to be maintained upon the American Lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side, that is—

“On Lake Ontario to one vessel, not exceeding 100 tons burden, and armed with one 18 pound cannon.”

“On the upper lakes to two vessels, not exceeding like burden each and armed with like force.”

“On the waters of Lake Champlain, to one vessel not exceeding like burden and armed with like force.”

“All other armed vessels on these lakes shall be forthwith dismantled and no other vessel of war shall be there built or armed.”

“If either party should be hereafter desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.”

“The naval force, so to be limited, shall be restricted to such service as will in no respect interfere with the proper duties of the armed vessels of the other party.”

Never in the history of nations has an international document, so far-reaching in its effect, been compressed into so small a compass as the Rush-Bagot Agreement of 1817. It is a model of brevity and comprehensiveness, and in many respects a hundred years ahead of the times. Edward Atkinson, of Boston, said that it was “the greatest step in progress toward the maintenance of peace and without precedent in history.” The London Times said in reference to it, “No wiser act was ever agreed upon between two nations than the limitation of the naval force on the lakes.”

A rapid review of the past century is necessary to understand the effect of this agreement upon the development and progress of the North American Continent. The first twenty-five years after the signing of the Treaty of Ghent witnessed marked industrial progress, and a gradual shifting of population and industry towards the West. Relations between the United States and Great Britain, and particularly between the United States and Canada, became pleasant, and even cordial. In 1837 clouds appeared upon the horizon owing to the strong sympathy of certain Americans with the Mackenzie rebellion. There was much talk of

the abrogation of the Rush-Bagot Agreement and a general arming of the lakes. Probably the principal factor in restraining the American authorities from overt sympathy with the "Patriots" was the fear that Great Britain would lend to the aid of her colony her great naval resources.

Relations were further strained by the Maine boundary dispute, and raids and counter-raids were constant. In order to cope with the situation both Governments chartered boats for coast defence purposes. The United States were afraid we were arming the frontier against them and during the session of 1840 there was much talk of their unpreparedness and our activity. On March 8th, 1840, the following resolution passed the House of Representatives: "That the President of the United States be requested to communicate to this House, if compatible with the public service, whether the Government of Great Britain has expressed to the Government of the United States a desire to annul the arrangement entered into between the two Governments in the month of April, 1817, respecting the naval force to be maintained upon the American Lakes; and that, if said arrangement be not annulled, whether there has been any violation of the same by the authorities of Great Britain."

Resolution after resolution was introduced calling for more and stronger fortifications, each representative speaking for his own locality. Many residents along the southern shores of the lakes, official and non-official, seemed to have become alarmed at the necessary defence preparation we were making. At this time the American Government built at Pittsburg a side-wheeled iron steamer, the "Michigan." She was taken across the country in sections and placed upon Lake Erie in 1843. She was 498 tons burden with an armament of two eight inch Paixhan guns, and four thirty-two pounder carronades. This was in excess of the stipulations of the Agreement of 1817, both as to tonnage and armament, and in 1844 the British Minister at Washington entered a protest. In the correspondence which ensued it was pointed out by him that, although Great Britain had during the rebellion of 1837 maintained in the defence of the Canadas, a naval force exceeding that stipulated, as soon as the Government felt that danger was past it had reduced the force in order to adhere strictly to the rules of the Rush-Bagot Agreement. It appears that the British Government was satisfied that the United States had no ulterior motive in the construction of the "Michigan," and, as they had not availed themselves of the privilege of maintaining four vessels, this ship was allowed to remain, and it continued for about 50 years to be the only American war ship on the lakes.

No sooner were the troubles over the Mackenzie rebellion and the Maine boundary settled, than a difficulty arose regarding the Western Boundary. "Fifty-four forty or Fight" was the slogan of those who were enthusiastic in their ideas concerning the "manifest destiny" of the United States, and even the school boys wrote it on the fences. President Polk proclaimed to the Senate on March 4th, 1846, that "Under this aspect of our relations with Great Britain I cannot doubt the propriety of increasing our means of defence both by land and sea." This trouble

was also amicably settled. They did not get fifty-four forty, nor did they fight.

The American Civil War again brought the question of lake defences to the fore.

The Confederates were reported to have secured some ships which were passing up and down the lakes, flying the British flag, with the intention of engaging in depredations upon the coastal towns and cities of the Union. As soon as the matter was brought to the notice of the Canadian authorities, prompt action was taken by Lord Monek. This, however, did not prevent an agitation in Congress for the abrogation of the Rush-Bagot Agreement, the idea being that with this Agreement out of the way the United States could undertake the immediate construction of a number of war ships. A resolution was introduced by Mr. Spalding, on June 13th, 1864, which was passed on June 18th. The preamble is worth reproduction. It reads: "Whereas the treaty of eighteen hundred and seventeen, as to the naval force upon the lakes, was designed as a temporary arrangement only, and although equal and just at the time it was made, has become greatly unequal through the construction by Great Britain of sundry ship canals; and whereas the vast interests of commerce upon the northwestern lakes, and the security of cities and towns situated on the American borders, manifestly require the establishment of one or more navy yards wherein ships may be fitted and prepared for naval warfare; and whereas the United States Government, unlike that of Great Britain, is destitute of ship canals for the transmission of gunboats from the Atlantic Ocean to the western lakes."

The upshot of these debates was that the Agreement of 1817 was finally abrogated by Congress in February, 1865, although prior to this date the necessary six months' notice had been given to the British Government. This action did not appear to be displeasing to Canada, for on March 2nd, 1865, Mr. Haultain, speaking in our House of Parliament, said:

"I am glad to see that the American Government have given notice of their intention to terminate the convention for not keeping armed vessels on the lakes. I am glad to see that this is to be put an end to, for it was decidedly prejudicial to our interests, and I have no doubt we shall have gunboats on our lakes before the end of the present year. There is no question that should they determine upon going to war with us before the opening of navigation, we might not be able to get a British gunboat on our waters by the St. Lawrence canals, as they are so easily accessible to our opponents, and, without much difficulty, could be rendered useless for navigation."

It was evident that something was needed to combat the feeling that the United States had hostile designs against Canada. Lord Russell suggested that it was time to think of something to take the place of the agreement of 1817 before it should be terminated by the notice already given. Mr. Adams, the American Minister in London, agreed that arma-

ments were expensive, useless, and breeders of suspicion, and he saw no reason for not continuing the Agreement in view of the active efforts of the Canadian authorities. Happily the storm appeared to be clearing, and on March 8th, 1865, Mr. Seward, on behalf of the United States' Government, instructed Mr. Adams to announce that they had decided to abide by the Agreement. There was some ambiguity in Mr. Seward's instructions, which caused misapprehension in England as to whether the previous abrogation had been rendered inoperative. This led to some further correspondence between the two Governments. In Mr. Seward's note to the American Minister he had said :

"You may say to Lord Russell that we are quite willing that the convention should remain practically in force ; that this Government has not constructed or commenced building any additional war vessels on the lakes or added to the armament of a single one which was previously its property ; and that no such vessel will, in future, be built or armed by us in that quarter. It is hoped and expected, however, that Her Majesty's Government, on its part, so long as this determination shall be observed in good faith by that of the United States, will neither construct nor arm nor introduce armed vessels in excess of the force stipulated for by the convention referred to."

On August 19th, 1865, the British Minister at Washington wrote to Mr. Seward to say that his Government understood from the notice that the Agreement contained in the convention of 1817 would continue in force unless it should be thereafter terminated by a fresh six months' notice. On August 22nd, 1865, Mr. Seward replied that the statement of Her Majesty's Government was accepted as a correct interpretation of the intention of the Government of the United States.

One event which should not be overlooked in the consideration of Canadian-American relations, was the curious refusal of the United States, in 1885, to allow a Canadian troop ship, chartered to suppress the Riel rebellion, to pass through the Soo canal. This action had largely to do with the decision to build a canal on our side of the St. Mary's River, and it is somewhat striking that ninety per cent. of the present traffic through our canal is American.

Another agitation for the abrogation of the Agreement of 1817 arose during the nineties, principally through the development of the American ship-building yards on the lakes. These yards were debarred from competing for the construction of war ships, as the Agreement is extremely explicit, viz. : that they should neither build nor maintain. It was, however, felt that in view of the refusal to grant permission to pass one of our ships through the American canal, the Government of the States could not well ask us to allow them to use our canals for the removal of war ships from the lakes to the ocean.

In 1895, the Venezuelan dispute drew special attention to the Rush-Bagot Agreement. At this time the Detroit Dry Dock Company had been refused a contract for two twin-screw gunboats, on which they had sub-

mitted the lowest tender. Secretary Herbert of the Navy said that if the language of the Agreement had been "build and maintain" instead of "build or maintain" the Detroit firm should have had the contract. In view of present treaty considerations and the dispute over the interpretation of certain words, this remark is somewhat illuminating.

The Agreement of 1817, notwithstanding the voices of Jingoists, and the numerous demands that it be consigned to the waste paper basket, is still nominally in force, although the United States has, by no means, kept it to the letter. At the present time they have a number of war ships on the lakes, used for training purposes. In a speech delivered by the Hon. Geo. E. Foster, in the House of Commons, on December 1st, 1909, attention was drawn to the presence of these ships. Unfortunately we are largely out of court, for in every case permission was granted by the Dominion Government before these ships were passed through our canals. In all, there are nine of these training vessels, armed in a very different manner to the requirements of the Agreement of 1817, but there is no indication that the United States, in transferring these ships to their lake ports, had any other object in view than that of training the youth of the States bordering on the great inland seas, for service in their salt water navy. Doubtless the change in conditions from 1817 to 1914 make it necessary to re-consider the exact wording of the Rush-Bagot Agreement. There is now little chance of its abrogation, but it would appear to be a most desirable thing, if in connection with the celebration of the Hundred Years of Peace between the British Empire and the United States, it could be re-modelled and given the status of a definite Treaty. The spirit of cordiality and amity between Canada and her great southern neighbour is such today that armed conflict is considered to be almost outside the pale of possibility. It is the desire of the great majority of people on both sides of the line that the mutual relations now existing should be still further improved, and that each country should work out its manifest destiny, to the benefit alike of themselves, their neighbours and the world at large.

## IX.

### EARLY MILITIA MATTERS IN UPPER CANADA, 1808-1842.

BY REV. A. B. SHERK.

The militia are "a body of men enrolled and drilled as soldiers, but only liable to home service." The militia of our country correspond to the "landwehr" of Germany. All nations feel the need of such a force for special occasions. It is said that there was a militia system as early as 1649 in Canada, of course under French rule; but the first Canadian militia law, at least in Upper Canada, was introduced in 1808, just four years before the war with the United States, in 1812. The militia organized in the different districts of the provinces did very efficient service, and but for their help the probability is that Canada would have become a part of the United States. The thorough loyalty of the old settlers, and their training for military service, did much to keep our country from becoming a part of the republic to the south.

At first each Province had its own militia system, but since the confederation of the provinces the system is uniform throughout the Dominion. This gives a much more efficient system than we had under the old arrangement.

My attention was called to the old militia system by papers that fell into my hands. These papers were the property of Jacob Gonder, one of the pioneers of the Niagara peninsula. Mr. Gonder was a great patriot, was connected with the militia from its first organization, and served in the war of 1812. The papers take us back only to 1822. At that time he was Lieut. in a company of the 3rd Lincoln Militia. Samuel Street was Captain of the company, and J. Warren was Colonel of the regiment. Training day was then on the 4th of June of each year. All who were enrolled on the militia list were required to be present at the place designated by the Colonel, answer to their names, and take part in the military drill. Unless there was something special, the militia would be called out but this one day in the year. At first the militia did not require any uniform for training day. It was the citizens of a certain district, in citizens' dress, who met annually to learn how to go through military manoeuvres. Crude as the system then was, it answered the purposes of the day. It was inexpensive, and was the beginning of our present excellent militia system.

On the 2nd of April, 1822, the officers of the different companies were notified by Col. Warren that by act of Parliament "training day"

had been changed from the 4th of June to the 23rd day of April. Why the change was made we are not told, for April would be the most unsuitable season of the year, as the roads in country districts are usually very bad, and farmers are very busy. But such was the order, and obedience was a necessity.

In 1824, an event occurred that did much to stir up patriotism and bring into prominence the militia of the Niagara District. The event was the removal of the remains of General Brock from Niagara to the monument that had been erected to his memory on Queenston Heights. The Lieutenant-Governor of Upper Canada issued a special order to have all the militia companies present on this occasion.\* Col. Warren sent a circular to all the Captains and Lieutenants of the companies of his regiment to obey this order, and meet at John McFarland's, two miles above Fort George, on the 13th day of October. The remains of Sir Isaac, accompanied by a grand military escort, were carried to Queenston and placed in the vault of the monument that the country had put on that eminence. There was a great military display and a great throng of citizens. The monument that stood on the "Heights" as a great historic landmark was destroyed by a miscreant named Ben Lett in 1839. Canada, however, had her revenge, by erecting a second monument, much better and loftier than the first.

Sir Isaac Brock was one of the best men that the home government ever sent to Canada (she has sent many good ones), and it is fit and proper that we should cherish his memory. Americans, too, have paid a high tribute to his character and worth. The last words of the great warrior chief, "Push on, brave York Volunteers," would be recalled as his remains were conveyed up the Niagara River and laid to rest in the receptacle prepared for them. The slow march of the long procession up the river and a fleet of vessels on the water keeping time with those on shore, and the band playing the dead march, must have been very impressive. And what memories it would recall! Memories of bloody strife, brave hearts, fallen heroes, and buried hopes; but best of all the memory of a peace between the two greatest Christian nations, that has now lasted a full century.

A good wide awake and active man usually had fair prospects of promotion to a higher rank in his company. Lieutenant Gonder was such a man; and in 1824 he was made Captain of his company. His commission bears date November 29th, 1824. It would seem that up to this time neither the officers nor the men were required to appear in uniform on training day; but after this the officers were obliged to appear in uniform.

As a matter of curiosity, and as showing the business methods of the times we copy a tailor's itemized account of a captain's outfit.

\*Gonder Papers, Niagara Historical Society.

Capt. Gonder to J. Todd.

Making military Coate,	2— 0—0
Buttons for Do.	1—10—0
Padding and canvas	5—0
White Cassimere	3—9
Silk Twist, Thread, Hooks, &c.	3—0
Sleeve Linings	1—9
	<hr/>
	£4— 3—6
Blue Cloth for facings, &c., Cottons	7—6
	<hr/>
	4—11—0

Received in full  
for Making and Trimming—J. Todd.

Niagara, U. C.  
April 21, 1825.

Cloth and appaulett, \$14	3—10—0
	<hr/>
	£8— 1—0
Silk Sash	2—10—0

Received payment for Cloth &  
Appaulet & Sash,

J. Warren.

Training day was the great day of the early militia, the authorized day; but still the companies were sometimes asked to meet for "drill and exercise" some days before the general training. Col. Warren issued such an order March 10th, 1824, and said the companies are to be called out "at least once previous to the 23rd day of April" (which was training day). But training day was the big day; it was a general muster, and the men and boys from every section and corner would turn out—even those who were not enrolled on the militia list. Unfortunately there would often be a good deal of drinking; the best efforts of the officers could not prevent it. In the early days of the last century everybody drank; probably most drank in moderation; but others knew not how to restrain themselves. The excitement of the great gathering and the social usages of the times had much to do with this excess. Chum would meet chum; each felt in high glee, and then they must drink each other's health together, not once, perhaps, but many times; and when the day is ended many of the men are unfit for service. Many of the officers, too, would encourage the evil by treating their men. This was expected. Such was an ideal training day three-quarters of a century ago.

The officers of the early militia did not have an easy time of it. They had to keep a record of all in their precincts that were liable to military duty. After training they were required to make a return to the colonel. They had to send in the names of all that were present, and report the names of those that were absent and the reasons for their

absence. This was often an unpleasant duty, for the absentee might be a relative or a neighbour. But absence from training without a reason made one liable to a fine. Some absentees would pay their fine without prosecution by the officers; but where they refused, a court of magistrates would be called, and then there would be the cost of the court in addition to the fine. One of the papers in my possession gives the proceedings of a number of sittings of a magistrate's court called by the militia officers. It was the officers of the company that called the court, and the superior officers always demanded the enforcement of the law. The company's officers could not be lenient if they would, for they were prompted by their superiors. The fines, however, for delinquents, were not very heavy—only about two dollars. Many young persons—children of parents who held non-resistant views—would sooner pay their fines than attend militia training. I have several statements from Col. Warren saying that certain parties had paid their fine to him the next day of the training.

The names of all males from 16 to 60 years of age had to be enrolled; sometimes the law said it should be from 19 to 50 years of age. But there were three classes that were exempt from military duty:—aliens, the sick, and certain religious denominations. Aliens were foreign born persons who had not become naturalized. The sick were required to get a doctor's certificate as a proof that they were unfit for military drill, and so not subject to a fine for neglect of duty. Quakers, Mennonites and Tunkers were exempt from all military duty by special law; but only those who were bona fide members of these churches were exempted. The law did not apply to adherents of these churches. Those who claimed exemption had to bring a certificate from their pastor stating that the bearer was a member in regular standing of the church of which he was a minister. But only members of the three denominations named could claim exemption.

Though the law exempted the Quakers, Tunkers and Mennonites from all military duty, it secured support from them in another way. It laid upon every male member of the church who was over 21 years of age and under 50, a fine or war tax. This was one pound, or four dollars of our money, and had to be paid annually. But sometimes the officers of a company neglected to collect the tax. The Gonder papers give a case where this had been neglected for three years. When this came to the knowledge of the Colonel, he called the Captain to account, who had to collect the fine and what was in arrears.

The Mennonites and Tunkers willingly paid the war tax, but the Quakers refused. They did so on the ground that a war tax was in support of war, and to pay it was as criminal as to bear arms in person and go to the field of battle. The officers of the law might sell a Quaker's goods and chattels, and collect the fine in that way, but it freed the Quaker from responsibility, so far as supporting war is concerned. Even those who hold the non-resistant faith are not fully agreed how far they should go in supporting the powers that be.

Sometimes the non-resistants got themselves into trouble by ignoring militia law and militia officers. The "militia papers" show us a case of this kind, as we see from the following summons: "You, G— W—, are hereby required to attend court for the trial of militia offenders and defaulters belonging to the 3rd Regiment of Lincoln Militia, which will assemble at Jacob Wilson's at the Cross Roads in the Township of Bertie on Friday the 30th day of August instant, at 10 o'clock in the forenoon, to answer a charge of not paying your exemption as a Menonist."

Dated this 17th August, 1839.

Samuel Street,

Col. Commanding 3rd L. M.

Throughout these papers we find the name of the denomination called Mennonites spoken of as Mennonists. The reason of this is that in Pennsylvania dialect it was usual to say Menist. The militia officers have changed the spelling a little. This people were called Mennonites after the founder of the denomination, Simon Menno, a Holland reformer contemporary with Martin Luther.

In 1827 training day was changed back to the 4th day of June instead of the 23rd of April. We learn from Col. Warren's circular to the officers of the companies of his Regiment that the change was only intended to be temporary. It was again changed in 1847 to the 29th day of June.

Among the militia papers is one of very special interest because it has to do with the re-construction of Brock's monument\*. This paper is a printed circular issued by the "General Committee who had this matter in hand. It was dated "Kingston, 29th September, 1842." We learn that the whole country was interested in this enterprise; large sums were subscribed, and even the Indians helped it on. This part of the report says: "That the committee for restoring the Monument erected to the memory of the late Sir Isaac Brock have received with the most lively satisfaction, a letter of the Chief Superintendent of Indian Affairs, written by desire of his Excellency Sir George Arthur, and communicating the munificent donations of the principal Chiefs, and others of the Chippawas of the upper reserve on the River St. Clair, the Chippawas of the lower reserve and Walpole Island on the River St. Clair, the Hurons and Wyandotts of Amherstburg, the Chippawas of the River Thames, the Moravians of the River Thames, the Muncies of the River Thames, the Oneidas of the River Thames, the Six Nations of the Grand River, the Mississagas of the River Credit; the Chippawas of the Saugeen River, Lake Huron; the Chippawas of the Township of Rama, Lake Simcoe; the Mississagas of Alnwick, Rice Lake; the Mississagas of Rice Lake Village in the Township of Otonabee, and of Mud and Balsam Lakes, and the Mohawks of the Bay of Quinte.

"And that they have read with great interest the affecting addresses

\*Gonder Papers, Niagara Historical Society

in which the principal Chiefs have made known their wishes to the head of the Government.

“The Committee have much pride in finding themselves associated with the brave and faithful Warriors of the Indian Nations, in the design of doing honor to the memory of the lamented General who was loved and admired by all his followers, and it is their anxious wish that the Chief Superintendent of Indian Affairs should, under the direction of His Excellency, take the most effectual means of assuring the principal Chiefs, that militia and other inhabitants of Canada are very thankful for their kind assistance in this grand design.

“That they feel the greatest respect for the loyalty and for the warm and friendly hearts of their Red Brethren; that they shall take care that their generous gift shall be made the best use of for the purpose they have resolved to join in; and that as long as the Monument shall stand, it shall tell their great Mother the Queen, and all their White Brethren, that the brave and grateful Indians have not forgotten their glorious leader and friend, who flew to their defence in the time of danger, and that they have helped to build the tomb over his grave.”

We are sure it was right and proper to make this kindly reference to the Indians in this military circular. The Indians helped to fight our battles and gain our victories in the war of 1812. It was a band of 600 Chippawas that helped to win the victory at Queenston where the noble Brock laid down his life.

The papers we have examined give us reminiscences of a bygone century in the Niagara District, and enable us to see how faithfully the early settlers of Canada did their part to establish law and order in all the settlements, and their earnest and honest endeavours were wonderfully successful. We, their descendants, look back with pride to the pioneer work done by the fathers, and realize that they have handed down to us a goodly heritage. If we do our part as well as they did theirs, Canada must be prosperous; no country can be more so.

It ought to be deeply impressed on us that the best defense of a country is the honesty, integrity, purity and Christian character of a people; but while the world remains as it is, and the nations are what they are, military preparations are a necessity; and the sword must sometimes be used to bring lawless men under restraint and submission. It is sad to think that this is so, but we know the fact.

The papers in my hands were official papers issued between 1822 and 1842. All of them were written with the pen, except the printed one relating to the reconstruction of Brock's monument, and this was provincial, not local. The penmanship of most of the papers is fine, and that of Col. Warren is almost faultless. The composition is careful and guarded. All this goes to show that the writers were men of taste and culture. Everything they said shows promptness and decision. All the papers

were folded, addressed and sealed without the use of envelopes, which came into use later on. To fold a letter in a neat and tasty way was considered a fine accomplishment. The first settlers of our country had few advantages, but they made good use of those they had. The old militia system, with all its defects, was a great training school for the people of an early day; it helped to make them intensely patriotic, and patriotism is the strength and safety of a nation.

315 Don Mills Road, Toronto.

## X.

### THE BRITISH NORTH AMERICAN LEAGUE, 1849.

BY PROFESSOR CEPHAS D. ALLIN.

**Preface.**—The origin of the British American League and some phases of its early development have already been traced in considerable detail in a recent work entitled “Annexation, Preferential Trade and Reciprocity,” in the preparation of which the present writer had a part. It is the aim of this brief monograph to supplement that treatment by a more complete study of the origin of the League, the course of its political development and of the cause or causes of its somewhat mysterious disappearance. In conclusion, an attempt is made to determine, with as impartial a mind as possible, the extent of its contribution to and influence upon Canadian history and politics.

The writer wishes to acknowledge his indebtedness to Mr. George M. Jones, of Toronto, for valuable assistance in the preparation of this monograph.

**Introduction.**—But little is known of the British American League, though for a short time it played an important part in Canadian politics. Two views have found expression as to its origin and character. The first, that of Sir John Macdonald, voices the sentiment of the Conservative party, in ascribing to the League the honor of determining the course of Canadian history.

“Our fellows,” declared Sir John, in explanation of the Montreal annexation manifesto, “lost their heads. I was pressed to sign it but refused and advocated the formation of the British American League as a more sensible procedure. From all parts of Upper Canada and from the British section of Lower Canada and from the British inhabitants in Montreal representatives were chosen. They met at Kingston for the purpose of considering the great danger to which the constitution of Canada was exposed. A safety valve was found. Our first resolution was that we were resolved to maintain inviolate the connection with the Mother Country. The second proposition was that the true solution of the difficulty lay in the confederation of all the provinces. The third resolution was that we should attempt to form in such confederation, or in Canada before confederation, a commercial national policy. The effects of the formation of the British American League were marvellous. Under its influence the annexation sentiment disappeared, the feeling of

irritation died away and the principles which were laid down by the British North American League in 1850 are the lines on which the Liberal Conservative party has moved ever since."

The second view is that of his Liberal opponent, the Hon. Alexander Mackenzie, who presents the League in a most unfavorable light.

"The Montreal disturbances ultimately gave birth to a new organization under the name of the British North American League. The Association was a queer mixture of Tories and Annexationists and comprised all the disappointed items. Like King David's famous army at the cave of Adullam, "Every one that was in distress and every one that was discontented gathered themselves" to the meetings of the League. The Globe and Liberal Journals generally greeted the new political mongrel with a storm of ridicule. They were dubbed 'Children of the Sun.' After one brief attempt to effect something by their meeting at Kingston, the concern collapsed from the sheer rottenness of its material. They advocated extreme Toryism and extreme disloyalty and finally threatened to drive the French into the sea."

**The British North American League.**—The grant of responsible government proved the undoing of the Tory party. For many years, the Tories had considered themselves the only loyal party; and they believed that they had merited by their loyalty the favor of the successive governors of the colony and the staunch support of the Colonial Office. But the old order of things had passed away. The day of special privileges in church and state was over. The free spirit of democracy was abroad throughout the land. New principles of social and political liberty were in the ascendency. In the election of 1848, the Tory party went down to a crushing defeat, but fighting bitterly to the end. They could not easily reconcile themselves to the new experience of seeing their disloyal opponents seated on the Treasury bench and monopolizing the places of honor and profit under the Crown. In the bitterness of defeat they took up the cry of French domination and carried the flaming torch of racial and religious hatred throughout the Province. The aftermath of this dangerous agitation, the assault on the Governor General and the burning of the parliament buildings at Montreal, completed the discomfiture of the party. For the moment, the party seemed on the verge of dissolution. The Tory leaders were not equal to the situation; they could neither control the wayward course of their erstwhile supporters, nor formulate a new political program. The rank and file of the party, refusing to foreswear their political principles, wandered around in aimless confusion without an accredited leader or policy. An extreme section of the party, embittered by the series of humiliations they had received from the local and British governments and discouraged as to the future of the country, foreswore their allegiance to the Crown and entered upon an active campaign for annexation to the neighboring Republic. A more moderate group, however, undertook to reorganize the party on a more popular basis and were even ready to adopt some of the democratic principles of their political opponents.

The Reform party likewise was in a process of disintegration. Upon accession to office the old struggle between the radical and conservative elements of the party broke out anew. The radical or Clear Grit wing, who derived their political opinions for the most part from the United States, were resolved to introduce the principles of American democracy into the whole social and political organization of the country. The conservative element, on the other hand, which was more influential in the councils of the government, were averse to any further important constitutional changes. They were alarmed at the spread of republican doctrines within the party and sought to check these dangerous tendencies; but their efforts were far from successful.

In England the whole theory and practice of colonial government had been rapidly changing. After a hard struggle the economic dogmas of Adam Smith had triumphed over the ancient principles of the Mercantile School. The theory of colonial monopoly first gave way to the more enlightened policy of preferential trade. The mother country granted a preference to colonial products and received a corresponding preference in colonial markets for British products. But with the adoption of the tenet of free trade, the whole system of imperial preference was swept aside. However beneficial were the results of the change of policy in England, there can be little doubt but that its effects at first were disastrous to the colonies.

In Canada, the withdrawal of the colonial preference inflicted a crushing blow on the industrial and mercantile community. "Temporary insolvency was the price the Canadians paid for the triumph of English free trade." Much of the capital of the country had been tied up in infant industries which owed their existence to the protective policy of the mother land, and which were not yet strong enough to face the open competition of the world. The Boards of Trade of the province raised their voices in loud protest against the ruinous policy of the English government. In a letter to the Colonial Secretary, Lord Elgin bitterly described "the downward progress of events. These are ominous words. But look at the facts. Property in most of the Canadian towns, and more especially in the capital, has fallen 50% in value during the last three years; three-fourths of the commercial men are bankrupt owing to free trade. A large proportion of the exportable produce of Canada is obliged to seek a market in the United States. It pays the duty of 20% on the frontier. How long can such a state of things be expected to endure." The local government could render no assistance for it was itself on the verge of bankruptcy. But all these pleadings were in vain. The English government was obdurate and absolutely refused to reconsider its fiscal policy. The unsympathetic attitude of the home authorities drove the colonists to extreme measures. Goaded on by anger and despair, a section of the business community turned for relief to the policy of annexation to the United States.

In England, a new school of political philosophy had arisen which was destined to exercise a powerful influence on imperial affairs. The doctrine of free trade was only one feature of the program of the Man-

chester School. The leaders of the School detested the whole system of imperialism as inimicable to the interests of democracy in England and as destructive to the growth of the spirit of colonial nationalism. The colonies seemed to them to be a happy hunting ground for Tory place hunters, a useless financial burden on the British treasury, an occasion of international discord and a grave danger in time of war. They accordingly advocated the emancipation of colonies from imperial control and their elevation to the rank of free and independent states.

The new political doctrines were received with mingled praise and condemnation in the colony. The Reformers, who had waged a long and apparently hopeless battle against the autocratic officials of Downing Street, were naturally strongly inclined towards the new principles. Although a majority of them were not prepared to go so far as to advocate or accept the principle of separation, they were ready to welcome any doctrine which held out the promise of an enlarged measure of colonial autonomy. But to the colonial Tories, the new dogmas, which placed a stigma on their time honored tradition of loyalty, were wormwood and gall. They could not hear without resentment the open suggestion that the colonies would confer a favor on the mother land and do themselves a service by peacefully cutting the painter. The Canadian public read the signs of the times. There seemed but one conclusion, said the Montreal Gazette. "All parties are convinced that the policy of England is to leave the colonies to themselves in politics and commerce. The withdrawal of colonial protection was followed by the invitation to the colonies to abolish their system of preferential duties. These steps indicate an intention of directing colonial education towards total independence."

✕ Out of the strife of parties and races, the economic distress and social discontent, and the revolutionary change in English political thought and policy arose a new political organization, the British North American League. It would have been strange indeed if the turmoil of men's minds had not given birth to a new political party, with a brand-new set of principles especially designed for the moment. The public were anxiously looking for relief from their distress. No aid or assistance was forthcoming from any existing authority. "There is," declared the Montreal Gazette, "a presentiment of approaching change. At no time has there been greater disaffection or so strong a desire for something different. Men know what they feel without particularly analyzing the causes or tracing them to their sources, although they may not be able to determine definitely the objects they desire or the means of attaining them."

The prime mover in the new organization was the Hon. George Moffatt, an influential member of the Conservative party in Montreal, and a prominent business man of well known moderate views. A strong local society was formed in that city which was made the headquarters of the League. The local executive resolved to start at once an active campaign for the organization of similar associations throughout the country. To this

end, an address to the public was prepared setting forth in detail the social, economic and political evils from which the province was suffering and calling for a provincial convention to deal with these conditions. The address expressly disclaimed any intent to dictate or suggest a political program for the convention. To the convention itself was intentionally reserved the sole right of determining all matters of policy for the League. Upon one question, however, the question of separation, the address came out positively; there should be no impairment of the imperial connection.

The objects of the League were designedly left in a state of vague uncertainty in the hope of attracting all the discordant and disaffected spirits of the country. Notwithstanding the loyalist pretensions of the address, the association in Montreal did not hesitate to admit a large number of annexationists to membership and even honored some of them with important executive offices. At one time it appeared as if the annexationists might capture the local organization and turn it to their own purposes. The loyalist members were thoroughly frightened at the turn of affairs, so much so that the Hon. George Moffatt, according to local rumor, threatened to resign the presidency of the association unless the question of annexation was excluded from discussion at the approaching convention. The struggle between the two factions came to an issue in the election of delegates to the Kingston convention. The loyalists were victorious in the battle of ballots; only one of the five delegates elected being a member of the annexationist group. After this defeat, many of the annexationists withdrew from the association with a view to the formation of a distinct annexation society.

Thanks to the efforts of Mr. Thomas Wilson, a local association was formed in Quebec. The League, he explained, was a non-partisan body whose primary purpose was to devise a means of rectifying the economic and political evils of the country. All persons were welcomed to membership whatsoever their political or religious beliefs. In Quebec, as in Montreal, annexationists joined the association in large numbers and several of them were duly elected to the local executive council. Mr. Wilson, who was chosen president of the local association, came out strongly in favor of a protective policy for Canadian labor and industry and for a legislative union of the British American provinces. He further advocated some radical modifications of the provincial constitution, in particular, the election of the members of the legislative council and the independence of the local parliament, save where imperial interests were involved. While professing the strongest attachment to the motherland, he declared that he would not sacrifice the interests of Canada to maintain the British connection; and he expressly declined to pledge the convention in advance to the maintenance of the imperial tie. But the views of Mr. Wilson by no means reflected the general sentiment of the members of the local association.

In the Eastern Townships, among the Anglo-Saxon population, several branches of the League were formed, mainly out of the remnants of

the old Tory party. In this part of the province, the League was strongly affected by anti-French influences, but some evidences of annexation sentiment were also to be found among the members. Only one of the associations, however, namely, that at Melbourne, came out openly for annexation.

✕ By the French Canadians, the League was regarded with the greatest suspicion. To them, it appeared as the legitimate successor of the old Tory party from whose tyrannical rule they had but recently escaped. And undoubtedly there was considerable occasion for this suspicion, since in its origin and personnel the League was closely associated with the agitation against their race and religion. In many places the primary object of the League was proclaimed to be to unite the English population in a political bond in order the better to oppose the domination of the French in politics. The French-Canadian leaders and press did not fail to exploit this feature of the League's activity to their own political advantage as a means of solidifying the vote of the French electorate.

But it was in Upper Canada, as was to be expected, that the League made the greatest progress. In every city and in all the considerable towns and villages of the west, a local association was formed. The membership was recruited almost entirely from the ranks of the Tory party, although here and there a few annexationists and an occasional disgruntled Reformer were to be found. The new organization was especially welcomed by the moderate or conservative element among the Tories. For some time past, they had been restless under the oligarchical rule of the old Family Compact and dissatisfied with the reactionary opinions of some of the High Church leaders of the party. The recent disgraceful proceedings at Montreal had overwhelmed them with humiliation, and they were glad to escape from the stigma which attached to the old party name and organization. The League held out to them the promise of a more progressive party. Many of the High Church Tories likewise joined the new organization, partly with a view to influencing its policy, but mainly in the hope of finding in it an effective instrument for overthrowing the hated Reform administration. The Toronto Patriot and the Hamilton Spectator, the leading organs of the old Family Compact group, vied with the Toronto Colonist, the mouthpiece of the moderate element of the party in commending the League to the hearty support of their political friends. The annexationists who slipped into the local associations were recruited from several different sources. They were either democratic young Tories like Mr. H. B. Wilson, son of the former speaker of the Upper Canada Assembly, Tories by tradition, democrats by conviction, and annexationists by self interest; or they were extreme partisans, ultra Tories whose feelings of loyalty had been outraged by the liberal sympathies of the Governor General and the bland indifference of the Colonial Office to their demands; or they were ultra Protestants, who fearful of the consequences of French domination, believed that the only way in which they could save their race, language and religion from destruction was by a union with the great Anglo-Saxon nation to the South; or they were members of the business community who saw

in the open markets of the United States the only escape from financial insolvency. With the majority of the annexationist or quasi-annexationist members of the League a political union with the neighboring Republic was as yet but an *arriere pensee*, an ultimate resort in case all other remedial measures should fail. Only a small number of the group were active propagandists; and even these, in order to obtain a more favorable hearing, found it advisable to limit their propaganda to the advocacy of the principle of elective institutions and a possible separation from Great Britain. The few stray Reformers who threw in their lot with the League were, for the most part, either disappointed and splenetic office seekers, or extreme radicals who were thoroughly disgusted with the conservative policy of the Reform government. The overthrow of the Baldwin administration was in the judgment of the latter, a condition precedent to any real progress towards a true social and political democracy.

An active campaign was undertaken by the leading Tory papers, in conjunction with a few of the local associations, on behalf of the League. The Hamilton association issued an address similar in character to that of the Montreal branch setting forth in somewhat lurid colors the deplorable political and social conditions of the country and especially emphasizing the danger of French domination. Little attempt was made by the press or the responsible leaders of the League to set forth in detail the objects of the League. A few of the leading papers of the party, however, took occasion to repudiate any connection of the League with the annexation movement. For the most part, the League devoted itself to the task of stirring up popular discontent against both the local and English governments. The party press was particularly severe in its attack on the extravagance and pro-French tendencies of the provincial ministry and in its criticism of the unjust and destructive fiscal policy of the Whig party in England. Such discussions as took place within the several associations were mainly concerned with the questions of independence, French domination, and the future constitution of the province. The question of a separation of Upper and Lower Canada, a union of the British American colonies and the political and commercial relations of the colonies with England and the United States were also taken into consideration but aroused much less interest.

Meanwhile the Reformers had been watching the course of the League with jealous eyes. They were quick to seize upon the mondescript character of the League and the annexation tendencies of some of the leaders in Lower Canada as the most vulnerable point of attack. Under the leadership of the Toronto Globe, the entire press and party took up the partisan cry that the League was at heart an annexationist body, and that the Tories of Upper Canada had sold themselves into the hands of a band of conspirators at Montreal.

The election of delegates to the convention aroused considerable interest throughout the province. The two principal questions at issue were separation from the mother country and an elective legislative council. In Lower Canada the contest was particularly keen in regard to the first of these questions. The loyalists were almost uniformly

successful in the several associations and sent a majority of delegates pledged to the maintenance of the British connection. But although opposed to annexation, the delegates were for the most part strongly favorable to a revision of the constitution according to more democratic principles.

In Upper Canada, where the League mustered its chief strength, the overwhelming sentiment of the members was opposed to both independence and annexation. Only two or three avowed annexationists were fortunate enough to command the suffrages of a majority of their fellow members, and even they owed their election to their personal popularity or to the advocacy of other issues than independence or annexation. Mr. H. B. Willson, for example, the most prominent annexationist in Upper Canada, was chosen as a delegate by the Saltfleet Association, largely owing to his earnest campaign on behalf of the principle of the popular election of legislative councillors. In a public statement to the press, he frankly admitted the feebleness of annexation sentiment in the west. The question of annexation, he declared, "would not be broadly broached by its advocates at the convention, but the preliminaries, separation and independence, might be proposed as more likely to win general support." In fact, the result of the election of delegates effectually disposed of the question of separation in advance, and the annexationist leaders were wise enough to accept the verdict.

But on the question of elective institutions there was a much severer struggle within the associations between the progressive and conservative elements of the party. The former put up a valiant fight for the popular election of members of the upper house, and in some of the associations were successful in electing their candidates, but in the majority of the local branches the old Tory party, which still clung to the nomination principle, were victors in the contest.

\* On July 26, 1849, the delegates assembled at Kingston. The convention was a veritable cave of Adullam in its membership, representing almost every section of the public save the French Canadians. Tories, Annexationists, Orangemen and Radicals sat side by side. There were about 150 delegates in attendance, the great majority of whom were from Canada West. Although the representatives from Lower Canada were comparatively few in number, they wielded an influence altogether out of proportion to their voting strength. The leaders of the Lower Canadian delegation, Messrs. Mack and Montgomerie of Montreal and Mr. Wilson of Quebec, were men of more than average ability and of pronounced and somewhat advanced opinions on the questions of the day. The majority of the delegates from Upper Canada were High Church Tories, but there was a respectable minority of moderate conservatives and a few radicals who played an important part in the deliberations of the convention. Prominent among the delegates from Canada West were Messrs. Gowan of Brockville, Murney of Belleville, Duggan and Vankoughnet of Toronto, Gamble of Vaughan, Willson of Hamilton, MacDonald of St. Catharines, Dixon of London, Ermatinger of St. Thomas, and Strachan of Huron. The Hon. J. A. Macdonald was one

of the delegates from Kingston, but did not take a very active part in the proceedings.

The moving spirit of the convention was J. W. Gamble, the leader of the progressive element of the Tory party. He was actively supported on the floor of the convention by Thomas Wilson of Quebec and O. R. Gowan, a prominent Orangeman, who had distinguished himself by the violence of his attacks on Lord Elgin. The stalwart or ultra Tory group had no outstanding representative in the convention, but Messrs. Murney, Ermatinger and Rolland MacDonald could always be counted upon to defend the traditions of the party. Between these extreme wings stood the moderate group who were principally concerned about formulating a popular but conservative program which would unite all factions of the party and appeal to the sound judgment and patriotism of the country.

The Hon. George Moffatt was chosen chairman of the convention and Messrs. Mack and Brooke, Secretaries. The debates were carried on behind closed doors, none but members being admitted, but the press was furnished by the secretaries with a copy of the proceedings.

The struggle between the progressives and the stalwart or Family Compact factions broke out at the very outset on a resolution of Mr. Thomas Wilson in favor of an elective legislative council. This was met by an amendment by Mr. Ermatinger setting forth in fervid language the loyalty of the convention to the Crown and the principles of the British constitution. On behalf of the resolution, it was maintained that the electorate were dissatisfied with the existing constitution, that some changes of a popular nature were imperatively demanded in order to bring it into accord with public opinion and that the election of legislative councillors would not only secure the independence of the upper chamber from ministerial coercion but would produce an abler and more conservative body of men. Some of the delegates from Lower Canada were particularly severe in their arraignments of the political and economic policy of the imperial government and were correspondingly eager for such an amendment of the local constitution as would prevent the undue interference of Downing Street in colonial affairs. But to the majority of delegates from Upper Canada the resolution appeared to be a departure from the true principles of the British constitution and to be a dangerous step toward separation and the adoption of the republican institutions of the United States. All the speakers, however, agreed in condemning the government for packing the Legislative Council in order to carry the Rebellion Losses Bill. After a spirited debate the amendment was carried by 89 to 19.

The proceedings of the second day opened with the resolution by O. R. Gowan in favor of adequate protection for the manufacturing and industrial interests of the province both as an end in itself and as a means of building up a large and profitable market at home for the agriculturists. Mr. Gowan dwelt particularly on the desirability of having a steady local market for farm produce. He attributed many of the woes of the

colony to the unsatisfactory character of the English market and looked forward hopefully to the time when Canada would be entirely self-contained, when she would do all her own manufacturing, and consume practically all the produce of her farms. Messrs. Gamble, Ermatinger and Wilson supported the resolution in strong speeches. The loss of the English market, it was urged, had forced upon the province the necessity of developing an independent fiscal policy of its own. The feeling of the convention was especially strong against the English government for the withdrawal of the imperial preference, the loss of which was held responsible for most of the colony's woes. In the minds of some of the members the policy of protection was as much a measure of retaliation against Great Britain as a measure for the promotion of Canadian industry and trade. The resolution met the hearty support of the convention and was carried unanimously.

The afternoon session was devoted mainly to a general arraignment of the policy of the government. A resolution by Mr. Gowan in favor of retrenchment was the innocent occasion of a sharp tilt of the speaker with some of the members of the old Tory party. In the course of an unsparing criticism of the different items of the civil list, Mr. Gowan referred rather disrespectfully to the generous liberality of the Family Compact to its own members. This reflection called forth a strong protest from several members of the convention, particularly from Mr. Murney, who staunchly defended the English policy of paying adequate salaries to the servants of the Crown. But the storm proved to be only a tempest in a tea-pot, for after some further desultory remarks by Hon. J. A. Macdonald and others, the resolution was agreed to unanimously.

Two other general resolutions condemnatory of the policy of the government were adopted without opposition after a somewhat perfunctory discussion. The sorry condition of the province, according to Mr. Strachan, was due primarily to the subserviency of the government to their French-Canadian supporters as evidenced by the payment of rebels and the usurpation of the Governor General's authority by Mr. Lafontaine. As a climax to the general condemnation of the ministry, a resolution was presented in favor of the impeachment of Lord Elgin. But the more moderate members of the convention realized that the reputation of the League would be endangered by the adoption of such an extreme measure and they accordingly opposed the motion on grounds of political expediency and constitutionality. Mr. Backus had little difficulty in demonstrating that the resolution was based on false constitutional principles, since under the system of responsible government the Governor General had no option but to accept the advice of the Cabinet and to sign the Rebellion Losses Bill. But Lord Elgin was not permitted to escape scot-free from the wrath of the Tories. A somewhat milder resolution, in which a demand for the recall of the Governor General was coupled with a declaration of unfaltering attachment to the British connection, was carried despite a good deal of opposition. The English government was, likewise, brought to task in a resolution expressing regret that Her Majesty had been unwisely advised to assent to the Rebellion Losses Bill.

The proceedings of the day were brought to an end by the unanimous adoption of a resolution of Mr. Gowan in favor of the formation of a central association with affiliated branches throughout the province.

The third day was given up to the discussion of the most important subject which came before the convention, namely, the union of the provinces. Mr. John Duggan presented a resolution "That in the opinion of this convention a union of all the British North American provinces would most materially conduce to the prosperity of those colonies and to the integrity of the British Empire." In an able speech in support of the motion, Mr. Duggan pointed out, at the outset, some of the fatal defects of the existing constitution. The Act of Union had been a sorry failure; its principal result had been to hand the administration of the province over to the French. Upper Canada was helpless, for the English Government would not consent to a dissolution of the union; and even though the union were dissolved, she could not maintain an independent existence because of the fatal lack of an outlet to the sea. The idea of a federal union of the American colonies was by no means new. It had been advanced by Earl Houlderness in 1755 as a means of resisting the threatening aggressions of the French. A union of the British American provinces would, he maintained, not only establish the supremacy of the Anglo-Saxon race in Canada, but would raise the colonies to a higher national plane, would open up a larger field for industry, talent and ambition, would augment the strength and resources of the mother land, instead of burdening her as at present, and would set up an equipoise to the preponderant power of the United States in America. If, he concluded, he were obliged to choose between French domination and annexation, he would unhesitatingly choose the latter, a view which found considerable support among the members. In supporting the resolution, Mr. Dixon made the interesting statement that a gentleman of the highest standing and, moreover, intimately connected with the present ministry, had thrown out to him the hint that a federal union of the provinces was under consideration by the government as the best possible solution of the ills of the colony, and might soon be carried into effect if time and circumstances seemed propitious.

But the scheme did not have smooth sailing. An amendment was proposed by H. B. Willson in favor of an inter-provincial union in conjunction with colonial representation in the imperial parliament. He desired to see the present unwieldy colonies divided up into a number of small states, to each of which would be entrusted the management of its own municipal affairs. Matters of general concern to the colonies would then be reserved for the British Parliament to which the several colonies would send representatives. He believed that there were only two courses open to the British American colonies, incorporation into the empire or annexation to the United States. Of these alternatives he preferred the former. The scheme of imperial representation, however, was strongly opposed by Mr. Thomas Wilson on the ground that it would necessarily entail on the colonies a share of imperial expenditure which they were not prepared to bear.

The chief eritic of the resolution was Mr. Gowan. He failed to see how a federal union would get rid of French domination. It would, on the contrary, only aggravate the evil, since the French electorate would carry their corporate organization into federal elections, while in the proposed province of Quebec the English population would be left in a hopeless minority at the mercy of their French-Canadian neighbors. He thought that at some future date it might be expedient to divide the country up into a number of small provinces, and then to effect a federation; but at present he did not deem it advisable for the convention to go further than to appoint a number of delegates for the purpose of consulting with representatives from Nova Scotia and New Brunswick as to whether a union was possible and desirable.

The suggestion was quickly taken up by Mr. Breckenridge of Kingston who moved as a substitute motion that delegates be appointed to meet at Montreal and consult with delegates from Nova Scotia and New Brunswick concerning the practicability of a union of all the provinces, and to report back to the next convention of the League the results of their deliberations. The favor with which this resolution was received induced Mr. Duggan to withdraw his original motion and Mr. Willson his amendment thereto. The Breckenridge resolution now had the floor all to itself.

In supporting the resolution, Mr. Gamble declared that he was at heart in favor of the independence of Canada provided the consent of Great Britain could be obtained. Although he would have preferred to see a popular amendment of the local constitution and would even have supported the policy of annexation in preference to an inter-colonial federation, nevertheless for the sake of harmony he was prepared to forego his personal opinions and come out in favor of the scheme for a federal union. Several other leading delegates, including Messrs. Backus, Wilson and Vankoughnet, strongly supported the resolution on various grounds. Such a union, it was contended, was the only alternative to annexation, and was, moreover, the best preparation for the day when Great Britain should cast off the colonies, or when the colonies themselves, having attained to the full status of manhood, should desire to separate peacefully from the mother land and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitled them. Mr. Montgomerie welcomed the proposed union as the most effective means of overcoming the predominant influence of the French. He threw out the further interesting suggestions that there should be a re-adjustment of boundaries in the proposed federation, that the Hudson Bay Territory should be brought under the control of the federal government and that the powers of the local legislatures in the union should be carefully restricted in order to build up a strong federal government.

The scheme of a federal union, it must be admitted, commended itself to the delegates, less on its own merits as a distinctly national policy than as a utilitarian measure well designed to meet the immediate necessity of the time. To the ultra Protestants, it appealed as a means

of overcoming the domination of the French; to the imperialists, it held out the hope of preserving the British connection; to the nationalists, it prepared the way for the country's independence; to the business men, it presented the prospect of a wider market, and to the opportunists, it appeared as a likely means of escape from a horrible embroglio. Thanks to the combination of these discordant elements, the resolution was agreed to unanimously. Throughout the debate, it will have been observed, the majority of the speakers, notably Mr. Duggan, wisely refrained from any express declaration as to whether the union in view should be a federal or a legislative one.

The following representatives were selected to meet the maritime delegates: Moffat, Gamble, Gowan, Breckenridge, Vankoughnet, Montgomerie, R. MacDonald, Crawford, Stuart and Young. To these were subsequently added H. B. Willson, T. Wilson, Vansittart, Duggan, Dixon and Waltom.

On the last day of the convention two resolutions were quickly and unanimously adopted. The first condemned the government for packing the Legislative Council and censured the Colonial Secretary for furnishing blank mandamuses for the purpose. The second, which was moved by Mr. H. B. Willson and seconded by the Hon. John A. Macdonald, referred the question of colonial representation in the imperial parliament to the committee on federal union.

But there was one other question which came up for frequent discussion, notwithstanding the desire of many of the members to suppress its consideration, namely, the question of annexation. The question, in fact, occupied altogether too prominent a place in the public mind to escape some consideration in the convention. Only a handful of the delegates were open and avowed annexationists. For practical purposes they were a negligible quantity. But there was a larger group who considered annexation in a serious light as a possible policy in case all other remedial measures should fail. There was still another section of the convention, ultra Tories for the most part, who though hostile to a union with the United States, were ready to use the annexation cry as a weapon with which to frighten or coerce the English government into a compliance with their demands.

In the debate on the resolution in favor of the election of legislative councillors, the question of annexation was incidentally brought up by the opponents of the elective principle. In a subsequent debate on the organization of the League, the question was directly raised by Mr. Backus, one of the most radical of the Montreal delegates, who declared, "If we are to be told by every succeeding government in England that we are nothing in their eyes, that we are at perfect liberty to go whenever it is our interest to do so, let us raise ourselves at once to the standard of a nation." This frank declaration which was greeted with mingled tears and disapprobation, brought the speaker into conflict with the loyalist members and he was compelled to defend himself against the charge of being an annexationist. "Annexation," he explained, "ought to be

adopted only as a final resort in case all other measures should fail to bring relief."

The unpatriotic sentiments of Mr. Baekus and other semi-annexionist delegates called forth from the loyalist members, as we have seen, a strong resolution expressive of the unfaltering attachment of the convention to the British flag. Several of them, particularly Mr. Parsons of Beauharnois, and Mr. Ruttan of Cobourg, attacked the annexation movement in severe terms. The former declared that the convention was under an obligation to vindicate its loyalty against the false representations of their political opponents who had not only misled their supporters as to the real objects of the League, but had also led the American public to expect that the convention would come out in favor of the independence of Canada. No greater calamity than annexation could befall a British subject; but even annexation was preferable, in his judgment, to the introduction of American institutions into a British colony. Mr. Ruttan bitterly assailed the policy of annexation on the ground that it would introduce the accursed institution of slavery into the province and reduce the people of Canada to the level of the slave-holders of the South. The inhabitants of the United States, together with the citizens of France, should be made to realize that Canada would ever remain an integral part of the British Empire.

A clever attempt was made by Mr. Wilson of Quebec and his colleague from Saltfleet to sidetrack the resolution in the interests of their annexionist friends, but the loyalists would not be gainsaid and pressed the issue to a vote. The annexionists did not venture to contest the matter further and the resolution was carried unanimously.

But the question would not down. It again cropped up in the discussion of the resolution on a union of the provinces. Mr. Duggan, it may be remembered, supported the scheme of an intercolonial federation on the ground that it would give a national character to the British American provinces and enable them to maintain an independent position alongside the great republic. In his judgment, however, annexation was a lesser evil than French ascendancy. The ultra Tories of Upper Canada were particularly vigorous in their denunciations of annexation, though some of them, particularly R. Macdonald of St. Catharines, and Strachan of Goderich, were not averse to threatening the English government with separation unless it would reverse its anti-colonial policy. The loyalists, they declared, might be driven into the arms of the American republic by a continuance of the unfriendly attitude of the Colonial Office.

The most interesting speech of the convention was that of Mr. Gamble, who did not hesitate to declare himself a Canadian nationalist. He was of the opinion that a union with Great Britain, similar to that of the Ionian Islands, would be best adapted to the needs of Canada. Although the policy of annexation held out undoubted material advantages to the province, nevertheless, the vast majority of the inhabitants could not be tempted to lay aside lightly "their inherited British feelings." Annexation could only be regarded as a dernier ressort. He was of the

opinion that before many years had elapsed the slavery issue would rend the United States in twain. Some of the northern states would then desire to form a union with Canada. "The topography of the country and the natural sequence of events marked this out as our ultimate fate." Mr. Wilson likewise indulged in some interesting speculations as to the future of the province. The time, he believed, was close at hand when Great Britain would throw off the colonies as a useless encumbrance. She had already deprived them of all the commercial advantages of the imperial connection and would not hesitate much longer to forego the political advantages she now enjoyed at their expense. Canada, he concluded, should prepare for independence.

The proceedings of the convention showed conclusively that the overwhelming majority of the delegates had no sympathy with the cry for annexation. Undoubtedly many of the delegates were deeply incensed at the conduct of the English government and were prone to express their indignation in harsh and somewhat defiant terms, but nevertheless they could not be induced to foreswear their allegiance or to countenance the seditious proceedings of the annexationists of Montreal. Here and there among the delegates a few low murmurs of disaffection were to be heard, but there was little evidence of a spirit of open disloyalty.

On the motion of the Hon. J. A. Macdonald, a resolution was adopted expressive of the gratitude of the convention "to those members of the House of Lords and House of Commons who had recently come forward to advocate the cause of the loyal people of the colony and had thereby allayed much irritation and convinced the people that their wrongs would be righted when properly laid before the people of England." A vote of thanks was also extended to Messrs. MacNab and Cayley for the efforts they had made on behalf of the loyalists of the colony while on their mission to England.

The election of officers for the ensuing year resulted in the selection of a respectable, if not imposing, body of men, fairly representative of the varying shades of opinion within the League and of the different sections of the province.

President, Hon. George Moffatt, Montreal.

Vice-Presidents—

Hon. William Allan, Toronto.

John Young, Hamilton.

J. R. Forsyth, Kingston.

Thomas Wilson, Quebec.

Colonel Prince, Sandwich.

Hon. William Morris, Montreal.

Secretaries—

Corresponding—W. G. Mack, Montreal.

Recording—Helder Isaacson.

Treasurer—H. E. Montgomerie, Montreal.

Executive Committee—O. R. Gowan, J. W. Gamble, John McGillis, (Glengarry), Daniel Gorrie (Montreal), David G. Sloan (Melbourne), Geo. Duggan (Toronto), J. G. Vansittart (Woodstock), John Langton (Peterboro), William Stewart (Bytown), R. Harvey (Maitland).

The work of the convention was completed by the adoption of the following address to the people of Canada:

#### FELLOW-COUNTRYMEN:

Events so momentous as those which have given birth to this great Provincial Association, have been hitherto unparalleled in the history of this colony.

From the early settlement of the United Empire Loyalists in this Province, until a recent period, its people have evinced an attachment to the Parent State unsurpassed by that of any other colony of ancient or modern times. During a long period, chequered by adversity and prosperity, the people of Canada have in war rallied around the flag of their forefathers, and in peace have endeavored to cement the union with their fatherland by the strongest ties of amity and interest. In return for this devotion, the British Government long extended to the colony a commercial preference in her markets.

The harmony which so long existed—interrupted by an abortive rebellion—was again restored at its close, and the progress of the Colony became almost unexampled under the fostering influence of a wise Imperial Legislation. But, unhappily for Great Britain—an Empire whose Colonies are the strong arm of her power—she has recently opened her ports to foreign nations upon equal terms with her colonies, thus virtually excluding us from her markets, by throwing us into a ruinous competition with those to whom her ports are more immediately and cheaply accessible. In her promulgation of free trade principles, she has lost sight of the interests of her Colonies, with the view of obtaining from all nations reciprocal free trade, and thereby inundating the world with her manufactures.

This new policy of the Empire has recently produced in Canada its inevitable results. Unprotected by an adequate tariff, we have continued to consume a vast amount of British manufactures, whilst our produce, the principal source upon which we rely for their payment, has rarely entered the British markets except at a sacrifice. The result has been a monetary pressure, extensive bankruptcy, and general distress.

Coincident with these disastrous circumstances, a storm arose in our political horizon, which has threatened, and still threatens, to shake the foundations of our social fabric. The legislature, ruled by a faction, (which, for the retention of place and power, has kindled afresh the animosity of rival races) has legalized the principle of rebellion, and has prepared to increase the public debt at a moment of great financial embarrassment, by a provision for the payment of the traitors of 1837 and 1838.

These grievances roused thousands from a state of torpor and inaction. Your fellow-subjects, convinced that a crisis had arrived when it behoved every inhabitant of Canada to exert himself for the regeneration of his country, and rescue it from commercial and political thralldom, met and by combined action established the "British American League." This body extended its ramifications throughout every part of the Province. It established a system of representation by which delegates were to be sent to a General Convention at Kingston. That Convention, assembled by the free election of the Leaguers, according to an established constitution, after this exposition of its origin, now appeals to you to co-operate with the League in the great object it has in view for the welfare of our country.

#### INHABITANTS OF CANADA:

You are nominally enjoying the privileges of a free constitution—you are in reality chained down by circumstances which wrest from you the exercise of these privileges. You are told that you are fostered by a liberal and prudent government—in reality your efforts for the encouragement of home industry, have been checked in too many instances by hasty and inconsiderate legislation.

The true elements of your country's wealth—the certain indices of her prosperity—can only be developed by the adoption of measures which will fill her cities with the busy hum of industry—make her streams the outlets of that wealth which will be poured forth from the loom and the foundry, and the teeming harvests of her soil, and the produce of her primeval forests.

For the attainment of these results it is essential that a Tariff carefully and considerably adopted, should be so proportioned and levied as to afford just and adequate protection to every industrial class—the agriculturist, the manufacturer, the mechanic—so as to build up the prosperity of the farmer and the artizan side by side with the growing wealth of the manufacturer—so as to create a Home Market for Home Industry, and enrich together consumer and producer. The present Tariff is utterly inadequate to produce results so manifestly essential to the interests of our country.

#### THE PRESENT GOVERNMENT IS PLEDGED TO FREE TRADE PRINCIPLES.

The public expenditure is conducted with a reckless disregard of economy. The excessive salaries of public officers, now increased in number, together with the lavish expenditure of the Legislature, are entirely disproportioned to the financial resources of a young and overburdened country, and unnecessary to the efficiency of the public service. The authorized publications of this Convention, when laid before you, will disclose the facts on which we ground this assertion.

The fostering protection of a good government, to which you all have an inalienable right—which should be the guardian of the public

peace, the bulwark of social order—has been daringly displaced by the dominion of race and faction, introducing the elements of civil discord.

A law has been passed by the present ministry so monstrous in principle that has excited strong abhorrence and disgust in the minds of the loyal people of this colony. That measure, in its naked deformity, has met with no approval. It has been carried merely because the British members of the government dared not to oppose the determined will of the French leader. By sanctioning that measure His Excellency the Earl of Elgin has brought the royal authority into contempt—has disturbed public tranquility, and it is our firm opinion that his continuance in his high position cannot conduce to public peace or prosperity.

An insidious attempt made by the present ministers to increase the French Canadian representation in Parliament by so arranging the electoral districts of Lower Canada as to distribute the British inhabitants in small numbers among overwhelming bodies of the French, we regard with the most profound apprehension, as calculated to perpetuate that civil discord which has tended so much to the ruin of this great province.

A gross violation of constitutional usages has been perpetuated, and a precedent sought to be established which, if it be made a precedent, will have for ever destroyed the independence and utility of the Legislative Council. That body, according to true constitutional law, has distinct legislative functions. It is not intended as the mere register of the decrees of the Legislative Assembly. But the government now in power, in order to carry a particular measure, and in open violation of this principle, suddenly elevated to that House a number of persons of doubtful merit, and previously unknown in public life. By our constitutional law, her most gracious Majesty is alone invested with the authority to make appointments to the Legislative Council—a law, which if carried out, would effect a salutary check over the unscrupulous use of power in the colony—notwithstanding which, her Majesty's principal Secretary of State for the Colonies, transmitted to the Colonial Government blank writs of mandamus, thereby surrendering up into improper hands his sovereign's high prerogative.

The present ministry have also attempted to force upon the country a measure by which numbers of influential men would be deprived of the elective franchise, while the same franchise in Lower Canada was by law extended to a particular class, to whom in the western province the like privilege was denied.

#### INHABITANTS OF CANADA.

Fearlessly asserting the truth of our declarations, and appealing to heaven for the justice of our cause, we lay before you these statements on subjects which have engaged our attention. For the most part new to the discussion of public affairs, and not invested with legislative powers, this assembly can only deliberate upon such things as seem to be for your welfare. The attainment of that welfare must be confided to the individual energies, exertions and enthusiasm of every man among you

who would rather behold his country flourishing under paternal, than droop under the withering influence of factious legislation.

Before recommending to you the great questions you should adopt as your watchwords, we earnestly exhort you to shake off now and forever that apathy and indifference which at several momentous crises in public affairs have paralyzed your energies, and which it would seem that moments like these, when all minds are unsettled, can alone arouse to exertion. Perfect in every part of the country a complete and permanent organization. Let every Branch Society of this League become a deliberative body, so as to prepare its future delegates for the deliberations of this Convention. Endeavour to soften down political asperities and sectional animosities, and to unite all men for the welfare of this our common country.

Three subjects amongst those which have engaged our deliberations stand prominently forth—demanding your earnest attention.

By the first of these—a union of all the British American provinces—it has been proposed in this Convention to lay the foundation for making this country a great nation upon a solid and enduring basis.

Impressed with the weight of such a measure, but uncertain as to the sentiments of the sister colonies, this Convention has proposed a conference with those provinces by a delegation of some of its members; meantime it recommends this great question to your mature deliberation.

2. The second great movement in which we invite your co-operation is that for retrenchment and economy in the public expenditure.

3. The third is that still more great and vital movement we are prepared to make in favour of protection to home industry.

Inscribe these glorious rallying cries upon your banners—glorious because they will elevate your country from failure to success, from ruin to prosperity. They will unite with you eventually all honest men, all men of reason and true patriotism. Keep them before you in all your assemblies—procure for them the assent and advocacy of your neighbours. Support no man at the hustings who will not pledge himself to wise and salutary retrenchment—who will not agree to raise his voice in favour of protection. So shall you elevate this your country into a great nation of freemen, fostered by and in amity and connection with Great Britain, preserving her time-hallowed institutions, adopting her old trade principles, under which she has flourished for centuries, and her people have grown the richest on the face of the globe—those great trade principles which in the neighbouring union have also been adopted, and have established that mighty and prosperous nation. Forsake these principles, neglect this advice—then prepare to behold your country, notwithstanding the great advantages which God has given you—her boundless forests a source of exhaustless wealth for ages, her noble lakes, and splendid rivers, the natural highways of a nation's commerce—notwithstanding her unlimited water power, her extensive tracts of rich arable land, her immense mineral resources, her industrious and intelligent

population—prepare, we say, to behold your country reduced to a state of misery, degradation, discord and poverty.

To endeavour to avert such calamities is the duty of every freeman—of every lover of his country; and it should also be his high privilege. Rouse yourselves, then, to action; organize—agitate these questions—and rescue your country from present and impending evils.

G. MOFFATT,

Chairman.

Wm. Gordon Mack,  
W. Brooke, Joint Secretaries.  
Kingston, 31st July, 1849.

The proceedings of the conference had been followed with much interest by the people throughout the province. To the Tory loyalists in particular, the patriotic resolution of the convention brought great satisfaction, for at one time they had almost feared lest the League should be committed to annexation. "We dreaded," said the Montreal Transcript, "lest a handful of disappointed politicians should drag their party, and it might be the country, into the arms of the republican confederation. This intent, we had been told, lurked in the minds of many of the League. Had this folly been committed our opponents would have won a great triumph. Had the question been even seriously discussed, the result would have been most injurious to the country. But thanks to the good sense of the League, the question was shelved. Not even the sense of injustice could extort such a thought from an assembly of British colonists." The moderate conservatives were almost equally pleased at the successful formulation of a good party platform which promised to commend itself to the public by reason of its safe and statesman-like proposals for meeting the country's ills. The more radical members of the League were undoubtedly disappointed at the conservative attitude of the convention, but they comforted themselves with the thought that time was on their side and that their fellow members could not hold out much longer against the democratic tendencies of the day.

To the Reformers, the results of the convention were a great disappointment. They had hoped and even anticipated that the convention would either break up in discord or would commit itself to the policy of independence or annexation. But their prognostications were falsified. The convention had brought its deliberations to a happy conclusion, had demonstrated its loyalty to the empire, had set forth an attractive political program, had perfected its organization and was preparing for a vigorous campaign against the government. The policy of the League could no longer be flagrantly misrepresented and its supposed treasonable objects held up to scorn and ridicule. Henceforth the League had to be reckoned with as a serious and determined foe of the government.

Soon after the close of the convention, the committee on Union took steps to open up negotiations with the Maritime Provinces for the holding of an intercolonial conference. Owing to untoward circumstances considerable delay was experienced "in the preparation and publication of

the information which it was deemed necessary to lay before the colonists of the Lower Provinces." The committee found themselves face to face with several serious difficulties at the very outset. The question of a federal union was in its nature essentially a ministerial question. The government alone, either on its own initiative or at the instance of the legislature, was properly in a position to make overtures to, or to open up negotiations with, the governments by the sea in regard to the holding of a conference and the framing of a plan of union. But the League was an unofficial body; it had not even a representative character. Since it had no standing, the governments of the Maritime Provinces might choose to treat its representations as those of an officious and unauthorized body of men.

The situation was rendered all the more difficult by reason of the fact that the League was essentially a Tory organization, whereas the governments of Nova Scotia and New Brunswick were of the Reform party. The attitude of the Hon. Joseph Howe was known to be hostile to the League. Soon after the formation of the League, he had addressed an open letter to the Hon. George Moffatt in which he condemned in unsparing terms the unpatriotic and subversive objects of the League. "We gather from the 'scholastic production' to which your name is attached that a convention called by yourself is to supersede the Parliament of Canada. This movement for dispensing with the services of the legislature, it seems to us Nova Scotians, very naturally generated the idea that the building in which it sat was an encumbrance; and that its books and papers, fraught with occult sciences and varied superstition, were dangerous to the progress of society. Lord Elgin, who stood in the way of Mr. Protector Moffatt, was pelted as a matter of course; and as the old parliament house was too small for the convention, it was very reasonable that the mob should exclaim: 'Burn it down, burn it down; why cumbereth it the ground?' The promulgation of your manifesto and the occurrence of subsequent events take us somewhat by surprise in this benighted province; but nothing appears more natural than the sequence.

"As you have appealed to North Americans in your address, and as the mob of Montreal have favored us with their interpretation of its contents, I am induced to inquire whether it be the true one, and whether pelting the Queen's representative, dispersing our parliaments and burning our books, are to be indispensable preliminaries in joining the British American League?"

Little could be expected from the Tories by the sea. The grant of responsible government in the Maritime Provinces had disorganized the Tories there almost as much as it had their fellow partisans in Canada. They had been thrown out of office and were experiencing the bitter humiliations of a beaten and discredited party. For the moment they were not in a position to render any material support to their friends in Canada, however desirous they might have been to cooperate. To the best of the Committee's knowledge there was not even a political association in Nova Scotia, Prince Edward Island or Newfoundland, with

which the Committee could deal. Personal communications were accordingly addressed "to prominent and influential citizens in Halifax" requesting them to cooperate with the Committee by disseminating throughout these provinces "the printed proceedings of the convention accompanied by circulars written for the purpose of inviting the action of those provinces on the proposition for a union of the colonies." But unfortunately, these efforts were not attended with any success.

The correspondence with New Brunswick, however, was productive of different results. At a meeting of citizens of St. John in July, a New Brunswick Colonial Association was formed, somewhat similar in character to the League. Resolutions were adopted calling for an investigation into the depressed economic condition of the colony, for which the free trade policy of the English government was held primarily responsible, praying for an address to the Queen and Imperial Parliament to secure other markets for colonial products on terms of reciprocity and recommending the opening up of negotiations with the other North American colonies for common action in the matter. The Association also determined to appoint delegates to attend a meeting of the League at Kingston in August. This meeting, however, was postponed to a later date.

The rapid growth of the annexation movement alarmed the leaders of the League and hurried on the negotiations of the Committee. Business conditions on the Lower St. Lawrence, especially in Montreal, were apparently growing steadily worse. A large part of the mercantile community, including many of the commercial and industrial leaders of the city, had lost faith in the country and were looking to the United States for a means of escape from financial ruin. Many of the annexationist members of the League had withdrawn upon the decision of the convention to stand staunchly by the British connection. Economic distress now drove a still larger number of members, who were naturally British in their sympathies, into the open arms of the annexationists. A large proportion of the officers of the Montreal branch dropped out of the association. In Quebec, Mr. Wilson found himself unable to call a meeting of the local association because all the executive save himself had gone over to the annexationists. Throughout the Eastern Townships, secessions were almost equally numerous. Fortunately, in Upper Canada, the bulk of the members remained true to their principles of loyalty. Nevertheless the withdrawal of so many prominent members convinced the Federal Union Committee that some immediate steps must need be taken to carry out the primary object of the League, if that body was to justify or maintain its existence.

As there appeared but little prospect of a favorable response from Nova Scotia, Prince Edward Island and Newfoundland, the Committee resolved to proceed with the holding of a conference at Montreal with the Colonial Association of New Brunswick. To this conference, the Colonial Association sent two members, Hon. John Robertson and Hon. C. Simmonds; while the League was represented by Messrs. Gowan, Crawford, Wilson, Montgomerie and Gamble. The conference took place

at a most inopportune moment, immediately after the appearance of the annexation manifesto which had aroused the inhabitants of the city to an unwonted degree of excitement. As a consequence, but little interest was taken in the proceedings of the conference. The press scarcely deigned to pay it any attention. In truth, the citizens of Montreal had lost faith in the League and looked upon the idea of a federal union as a mere chimera.

The first meeting of the delegates took place on Oct. 12th. Mr. T. Wilson was chosen chairman. At the very outset, the conference found itself in difficulty for neither party was prepared to do business. All that the delegates could do was to talk matters over in a general way. The representatives of the Colonial Association "were not authorized to act definitely but only to ascertain the views and the opinions of the British American League" and to report thereon to the association. "We were disappointed," the delegates declared on their return, "in finding that the League or Committee were not prepared with any specific plan of proceeding and had nothing definite to submit for discussion. We stated that we had attended upon the invitation of the League and were anxious to be informed of the course intended to be pursued and especially with regard to the terms upon which they proposed to unite the British American colonies and whether they desired a federal or legislative union."

The two principal questions which engaged the attention of the conference were the economic condition of the colonies and an intercolonial union. In regard to the first of these questions the delegates unanimously resolved:

1. "That the commercial evils now oppressing the British American colonies are to be traced principally to the abandonment by Great Britain of her former colonial policy, thus depriving them of the preference previously enjoyed in the British market, without securing any equivalent advantages in any other market."

2. "That these colonies cannot now remain in their present position without the prospect of immediate ruin and that it is the duty of the Imperial government either (1st) to restore to the colonies a preference in the British market over foreign countries, or (2nd) to cause to be opened to them the markets of foreign countries and more especially the United States, upon terms of reciprocity, one or other of which is considered indispensable to the continuance of our present political connection with Great Britain."

Upon the second and more important question of an intercolonial union it was resolved:

"That a union of the British American provinces on mutually advantageous and finally arranged terms, with the concession from the mother country of enlarged powers of self government (including the unrestricted privilege of making laws to regulate and protect their commercial and industrial interests and to reduce the expenditure of the

civil governments to an adequate scale) appears essential to the prosperity of the provinces."

The discussion of the resolution covered a wide territory. It ranged over the whole field of the social life and constitutional position of the colonies, in addition to the more immediate questions of the expediency of a union and the best form of a constitution for the proposed federation. According to the report of the New Brunswick delegates "it appeared that among other reasons in addition to the influence of the united action of all the colonies why they should be united, an opinion existed that the French Canadian population possessed an undue influence in the representative body entirely disproportionate to their wealth and intelligence; an opinion in which all present concurred; and next to acquire the right to regulate the trade, revenues, post office, etc., and the expenses of the government. The League were opposed to a federal union on account of the great expense of such a measure. We frankly told them on behalf of New Brunswick that we could not recommend a legislative union of the colonies unless Canada would consent that the lower colonies should have sufficient influence in one of the deliberative branches of the legislature (the legislative council) to enable them at all times to interpose an effective check to all measures which tended in any way to their detriment. This, upon full discussion, was on all sides considered reasonable and a proposition that Canada ought not and would not oppose.

"There was a great difference of opinion in respect to the details of carrying out any great plan for these provinces, but should a union be really desired by all the colonies, all their conflicting opinions could be easily reconciled. We did not give any decided opinion as to the course which New Brunswick would ultimately pursue and made no pledges whatever."

It was further agreed that deputations from the British American League and the New Brunswick Colonial Association should meet at Halifax, on as early a date as possible, with such gentlemen from the other provinces as might attend "for the purpose of maturing some general plan for uniting the North American provinces" and for restoring their prosperity. The results of the convention were to be submitted to the public of the several provinces for popular approval. The committee of the League likewise agreed to call a second convention of the League to deal with the various questions which had been raised at the conference.

A call was accordingly issued for a convention of the League in Toronto, early in November. All the old issues of the last Convention were again brought up and threshed out in the several local associations. But there were two outstanding questions upon which it was felt that the League could no longer defer a decisive expression of opinion. The recent course of events in Montreal had forced the annexation question most prominently to the front. With annexation was closely associated in the public mind the question of elective institutions. Upon these two

issues the election of delegates was generally contested. The progressives and the stand-patters again locked arms, this time in a fight to the finish.

Just prior to the assembling of the convention, Mr. J. W. Gamble came out with an open letter to the members of the League in which, after mildly deprecating the policy of annexation on political grounds, he strongly urged the advantages of a protective tariff and elective institutions. Annexation, he admitted, would be preferable to the existing humiliating position of the colonists "as hewers of wood and drawers of water to Great Britain." It would undoubtedly draw capital into the country from the United States but it would not promote the economic independence of the province. "It would merely effect a change of masters by subjecting the industries of the colony to the domination of the United States in place of Great Britain."

The outcome of the election of delegates, so far as the question of annexation was concerned, was never in doubt. A few annexationists were chosen from Lower Canada; but in Canada West the associations came out decisively against annexation. Several of the associations, notably that of Grimsby, specifically instructed their delegates to oppose it at the convention. The selection of Toronto, the center of loyalist sentiment, as the seat of the convention, killed any prospect of a favorable consideration of any project looking to a separation from the mother country.

The battle over the question of elective officials was much more evenly contested. The spirit of democracy had been gaining strength throughout the League. It was no longer possible for the ultra Tories to wave the elective principle aside as a dangerous American innovation. The progressive wing of the party made gains in all directions and came up to the conference in greatly increased numbers.

The conference assembled in Toronto November 1st, 1849, with approximately seventy delegates in attendance. The decided decrease in the number of delegates as compared with the first convention marked a decline in the influence and prestige of the League. The delegates were again a heterogeneous collection of men representing almost all shades of political thought from Toryism to Radicalism, from passionate loyalty to annexation sentiment. Additional interest was lent to the proceedings by reason of the expectation that the convention would deal with the recent annexation movement in Lower Canada and would present a definite policy for meeting the growing dissatisfaction of the country.

At the opening of the convention, Mr. Gamble, who played somewhat the part of floor leader of the House, introduced a series of resolutions calling for remedial measures to allay the political and social discontent of the day. The first of these resolutions luridly pictured the woeful condition of the province. It set out by reciting at length that "exciting and irritating political questions involving the dismemberment of this colony from the empire are openly advocated engendering discontent, discord and fierce political animosities" and concluded by pro-

phesying "anarchy, confusion and civil strife" unless some judicious measures were adopted to calm the unrest of the people. This resolution occasioned a long and animated discussion of the whole political outlook of the colony concerning which the most widely divergent opinions found expression. Some of the speakers objected to the insertion of the reference to the burning of the Parliament buildings without some explanation of the causes leading up to it; others protested against the condemnation of the Montreal manifesto and the censure of the annexationists as likely "to cause several gentlemen belonging to the convention to withdraw." Several of the speakers frankly admitted that the province could not go on much longer as it was, that annexationist sentiment was growing rapidly and that a political union with the United States might needs be accepted as a *dernier ressort*. To obviate these criticisms, some of the objectionable clauses were expunged, but the resolution was still found so unsatisfactory that Messrs. Gamble and Gowan thought it best to combine forces and recast the whole resolution. A substitute resolution was accordingly presented which declared that "It is the opinion of this convention that these colonies cannot continue in their present political or commercial state." This resolution was carried without opposition.

The second resolution of Mr. Gamble calling upon the Governor General to dissolve the assembly with a view to a general election was withdrawn after some discussion as most of the delegates were opposed to appealing to Lord Elgin for anything, so bitter was the hostility to his Lordship.

The third resolution declared that, since the reforms determined upon at the Kingston convention, namely, protection, retrenchment, and a union of the provinces could not be accomplished without a change in the constitution, it was expedient that the Legislature should authorize the holding of a general convention of delegates from all the provinces to draw up a new constitution for the British American colonies.

In introducing the motion, Mr. Gamble set forth in considerable detail the advantages to the province of a protective tariff. His argument upon this point contained nothing new; it was largely a re-statement of the views expressed in his recent open letter to the League. But on the question of a federal union of the provinces his views had undergone considerable modification since the Kingston convention, for he now came out enthusiastically for an intercolonial union. In his judgment, a large national policy was demanded to stimulate the imagination of the Canadian public. If, he declared, they had a federal government, no more would be heard of annexation, for the province would soon become as prosperous as the United States. An intercolonial conference should be called at once for the country was "on the verge of a revolution." He suggested the partition of Canada into three provinces, which when united with Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland would form a strong, well-balanced federation of seven states. The federal government should be endowed with a rather limited range of legislative powers. To the provinces there should

be reserved all residuary powers and the entire management of their local affairs. He further proposed to amend the constitution by providing for an elective legislative council and an elective governor. He wanted a governor with a real power of veto and a Legislative Council which would be an effectual check on the Legislative Assembly. These constitutional changes, together with the policies of protection and retrenchment, would, he was confident, bring peace and prosperity to the country and ward off absorption into the neighboring republic. *Bamford*

Mr. Dixon of London moved in amendment that the League should draw up a scheme of union for submission first of all to the people of Canada and the other British provinces, and subsequently, if adopted, to be referred by the several legislatures to the imperial parliament for confirmation.

Mr. Vankoughnet was unable to accept either the original motion or the amendment. He was opposed to the resolution on constitutional grounds because he did not believe that the legislature had the power to delegate authority to the people to appoint delegates to a constitutional convention. He objected to the amendment on the ground that the members of the convention had not sufficient information before them on which to draft a constitution. Messrs. Wilson and Duggan supported the amendment because they believed that such a course would hasten matters and enable the League to lay a definite scheme before the other provinces in case of an intercolonial conference. The New Brunswick delegates, as was pointed out by the former speaker, had expressly declared that the Maritime provinces were looking to the League for political leadership and expected this convention to produce a feasible scheme of union. Mr. Duggan voiced the opinion that there would have been no annexation manifesto if the Kingston convention had acted boldly and had drawn up a definite plan of union. Mr. Gowan and President Moffatt, on the other hand, maintained that the only effective way of reaching the English government was through the local Legislature, the sole constitutional organ which could speak in the name of the province. If the Legislature refused to act, then, in the opinion of the President, the League ought to petition the Governor-General to dissolve the Assembly so as to afford the country an opportunity of expressing itself on the program of the League. If, however, the convention desired to play a more important part in the federal movement, it could draw up a scheme of federation as suggested in Mr. Dixon's amendment. Upon a division, the amendment was declared carried.

Later a resolution was proposed by Mr. Vankoughnet calling upon the local Legislature to take up the question of federation and providing for the appointment of a committee of the League to visit Halifax to take further steps to promote a union of the provinces. Some action, he maintained, should be taken at once on the report of the Federal Union committee. It would be difficult to get men to go to Halifax at this season of the year, but the convention should at least authorize delegates to go. He believed that the local parliament should take up the subject, but he objected to the procedure by which it was proposed that this should

be done. Mr. Dixon, however, opposed the resolution on the ground that the convention, in adopting his amendment, had declared that it was necessary to lay down the principles on which the union should be based before either the people or the Legislature were consulted on the matter. In view of this objection, Mr. Vankoughnet withdrew his motion.

Mr. Dixon thereupon obtained leave to present a series of resolutions setting forth in vague and ill matured terms the general principles upon which the proposed union should be constituted. Briefly stated, they were as follows: first, a guarantee of the full enjoyment of social, religious and political freedom; second, absolute equality of interprovincial rights; third, unrestricted free trade between the provinces; fourth, the development of a spirit of common nationality by the nationalization of commerce and the agencies or instruments of public credit, by the enactment of a general code of criminal law and of uniform laws in respect to currency and bankruptcy, by the establishment of a well regulated system of postal communication and by a general willingness on the part of the provinces to yield minor advantages for the public good.

At the same time, Mr. Strachan presented the rough outline of a federal constitution for the British American colonies. It provided for a Viceroy to be appointed by the Crown, two Houses of Parliament, to which were assigned a wide range of legislative powers, and a Supreme Court with both federal and general appellate jurisdiction. Such a union, he contended, would work wonders for the people of Canada; it would insure a community of feeling as well as interest among the provinces, call forth a higher and more enlightened policy, attract a better class of men into politics, identify the union with the mother land and prevent its attachment to the United States, strengthen the nation in peace and war, diminish the influence of the French, prevent the unfortunate divergence of colonial views at the Imperial Court, increase domestic and external commerce, develop the vast national resources of the country, and produce a higher moral and religious consciousness among the people. Unless some such measure were adopted, Canada, he concluded, would be lost to Great Britain.

To bring matters to a conclusion, Mr. Vankoughnet revived his resolution, minus, however, the clause in regard to the intervention of the local legislature. The resolution read as follows: "That it be resolved that in accordance with the suggestions contained in the report of the conference on the union already adopted, and inasmuch as time does not admit of this conference in its present session digesting the principles of a constitution for the union, a deputation of gentlemen be selected by the central society who shall be requested to meet in the city of Halifax in Nova Scotia, at some early and convenient date to be fixed by themselves, such gentlemen as may then and there assemble from the other provinces to discuss the terms of the union" and that all papers submitted to the convention be laid before the conference "that they may prepare a report to be submitted to the central society and to this or any future convention of the League as also to the public, containing such information

and suggestions as may be thought useful." The resolution was adopted unanimously.

A series of resolutions dealing with the political and economic conditions of the colony were presented by Mr. Wilson in a rambling speech, in which he managed to touch upon a whole variety of subjects including the status of the Governor-General, the mode of electing the Legislative Council, and a political union with the United States. The first of the resolutions declared that "it is essential to the welfare of the colony and its future good government that a constitution should be framed in unison with the wishes of the people and suited to the growing importance and intelligence of the country, and that such constitution should embrace a union of the British American colonies on mutually advantageous and fairly arranged terms, with the concession from the Mother Country of enlarged powers of self government." The resolution was adopted without opposition.

The second resolution dealt with the fiscal question: "that under the altered commercial policy of Great Britain by which the differential duties in favor of colonial produce have been largely repealed and the agricultural and commercial interests of British dependencies subjected to the severest competition in her markets with foreign rivals, independent in their legislative action, it is obviously unjust to perpetuate the imperial power to interfere with the proceedings of the colonial government adopted to foster and advance our social and industrial welfare." The spirited tone of the resolution awakened the suspicion of some of the ultra-Tories who saw, or thought they saw, in it a sinister design to lead "the convention step by step a little further than they would any of them like to go, indeed, to absolute independence," The effect of the resolution, according to Mr. O'Brien, "would be to prohibit the interference of the Imperial Government in our legislation." He moved in amendment a declaratory resolution to the effect that Canada would be driven "to seek the welfare of her own people irrespective of British interests or influences" unless Great Britain changed her fiscal policy and opened up for the colonies the markets of foreign countries, especially that of the United States. The amendment was summarily rejected. Mr. Benjamin thereupon moved in amendment that "if the interests of the British people will not admit of protection to colonial products in the markets of Great Britain, then it will become not merely the duty but the inevitable necessity of colonists to create at home or to seek abroad a market or markets for the products of their own industry," and that "in order to enable us to regulate these markets to our own advantage and for our own safety, it is necessary that we should obtain from Great Britain the control of the river and gulf of St. Lawrence and the power of imposing imposts upon British or foreign goods entering our markets." This amendment was likewise defeated after an animated discussion in which the authorities of Downing Street came in for severe criticism from some of the more radical members. The meddlesome interference of the Colonial Office, it was declared, had become intolerable. Nothing would contribute so much to

bring about a spirit of contentment within the province and to forestall the further growth of annexationist sentiment as the grant of complete self government to the colony. The original resolution was then adopted without a division.

The crucial question of an elective Legislative Council was again raised by Mr. Wilson on a resolution "That having regard to recent events which have proved that the present mode of constituting the Legislative Council is dangerous to its independence, and in view of a union of the British American provinces, it is the opinion of the convention that this branch of the government should be elected." Although advocating the adoption of a more democratic form of government, Mr. Wilson was careful to emphasize the real conservative character of the proposed constitutional changes. He condemned at the outset the existing ultra democratic form of government, in which the Governor and Legislative Council were practically deprived of any real authority in either legislation or administration. An arbitrary unicameral system of government had been set up in Canada in place of the well balanced constitution of England. He strongly favored a permanent Legislative Council, one-eighth of whose members should retire each year. In order to assure its integrity and stability, both the electors of and candidates for the Council should possess a property qualification. In a subsequent statement he endeavored to correct the natural but erroneous impression that he proposed to elect the Council by popular vote. He preferred, on the contrary, that it should be elected by the municipalities and corporations of the province. Such a body, he was confident, would prove a much more conservative chamber than a nominated council whose members were dependent upon the ministry of the day. He was prepared to carry the elective principle even further and to apply it to the office of governor. The governor, he proposed, should be chosen by an electoral college made up of the Legislative Councillors and an equal number of members from the Legislative Assembly.

Over this question the progressive and conservative wings of the convention again lined up in hostile array. The leaders of the convention were about equally divided upon the issue. The struggle was waged the more fiercely because the ultra Tories were firmly convinced that a great fundamental principle was at stake and not simply a difference of opinion as to the best mode of selecting an upper chamber. The real question at issue to them was whether the constitution should be republican or monarchical in form. All the arguments of the last convention were again threshed over; on the one hand, the abuse of the royal prerogative, the subserviency of a nominated House and the natural conservatism of an elective chamber; on the other hand, the superiority of English constitutional principles and the danger of American institutions. The leaders of both factions stood forth as the staunch defenders of the British connection against the designs of the annexationists. By the progressive speakers it was urged that the principle of popular election would not impair the loyalty of the people since history had shown that the colonies with the freest constitutions were the last to

revolt. Moreover, the experience of the early American colonies conclusively proved that the elective system was not incompatible with English principles of government. The principle of popular election had worked well in the district councils and there was every reason to believe that it would prove equally beneficial when applied to the legislature. A republican form of government, Mr. Gamble declared, was inevitable in Canada by reason of its proximity to the United States. The local constitution must be made progressive in order to stop the mouths of demagogues who were continually harping upon the larger measure of liberty enjoyed in the United States as compared with Canada. Unless some such measure were adopted, Canada would inevitably join the United States.

There was, however, a difference of opinion among the supporters of an elective council over the question as to the mode of its election and as to whether it should be a democratic or a conservative body. The more radical members of the convention stood for the principle of direct popular election and a democratic chamber, while the more moderate speakers preferred an indirect system of election as more likely to produce a strong, substantial House, representative of the wealth and social influence of the community.

Some of the delegates sought to tie up the question of a legislative council with the question of an intercolonial union. They desired to incorporate the principle of parliamentary election into the organization of a federal Upper House. Mr. Vankoughnet was strongly opposed to the popular election of legislative councillors. He had in view a chamber similar to the American Senate in the mode of its constitution and the personnel of its membership. An interesting attempt was made by Mr. Dixon to adapt the royal prerogative to a federal Upper Chamber. He moved an amendment to the effect that the legislative council should be chosen by the local legislatures subject to a right of veto on the part of the Crown in case of the selection of an objectionable member. But the amendment found no seconder. The proviso was unacceptable both to the radical members of the convention and to the federationists; it was incompatible alike with the principle of popular election and with the true principles of federalism. But the first section of the amendment, relative to the election of the legislative councillors by the local assemblies, found favor with several of the delegates, and especially those who were most heartily in favor of intercolonial union.

To the ultra Tories, on the other hand, the principle of popular election was a dangerous American innovation incompatible with the British constitution. The supporters of the elective principle were accused of going too far and too fast in their agitation; they were demanding what Papineau and MacKenzie had been punished for asking. This proposal had been advanced, according to Mr. Murney, "out of deference to the annexationists at the convention." It was in truth an instalment of annexation. If the principle of popular election were once accepted, it would soon be demanded in case of the governor and judges. Great Britain, it was contended, would throw off the colonies.

if they adopted such a revolutionary constitution. An amendment by Mr. Murney affirming that it was inexpedient to change the existing constitution of the colony and disapproving of the annexation manifesto was lost by a large majority. A subsequent amendment by Mr. Benjamin, Grand Master of the Orange Order, which aimed to secure the independence of the upper chamber and to prevent the abuse of packing by providing that "the number of members should be limited to and constantly maintained at half the number of members of the legislative assembly" was carried by a small majority; 34 ayes, 30 noes.

The vote was altogether too close to be decisive. The progressive faction was dissatisfied and on the verge of revolt. For the moment it was feared that the labors of the convention might be lost. In order to prevent an open schism, a resolution was presented by Mr. Langton to postpone the final determination of the issue "with a view to the several branches of the British American League pronouncing their opinion and instructing their delegates upon the question of the concession of elective institutions in Canada as an appanage of the British Crown." The convention had reached an impasse. A reference of the whole question back to the associations seemed the easiest and simplest way out of the difficulty. The resolution offered a fairly satisfactory compromise. It held out to the progressives the hope of ultimate triumph in the local associations; it assured to the ultra Tories the maintenance inviolable of the British connection. The progressives, in effect, were permitted to carry on their agitation for elective institutions, but it was determined in advance that the agitation must be strictly loyal and should not be turned to unpatriotic purposes or made to serve the ends of the annexationists. The convention had talked itself out. The members were desirous of returning home as soon as possible. The resolution was adopted unanimously without debate.

The question of annexation was again the most absorbing question before the convention. It came cropping up sometimes fittingly, but usually in the most unexpected and irrelevant manner, throughout all stages of the proceedings. The recent events at Montreal had made it the leading issue before the province and the convention could not well escape passing an opinion upon it. Several of the leaders of the convention were convinced that a mistake had been made at Kingston in smothering the question and that it would have been better if the League had then come out with a clear declaration against annexation. The equivocal silence of the first convention was, in the opinion of some of the delegates, the primary reason for the summoning of the second. The immediate object of the convention, according to Mr. Murney, "was to tranquillize the public mind by a declaration against the manifesto." In any case it was expedient to throw the question open to general debate. Now that a majority of the annexationists had withdrawn from the League, there was less reason to fear the result of a frank discussion of the issue. Moreover, it was only fair to permit those who, either openly or secretly, sympathized with the annexation movement to voice their opinions as to the best means of dealing with the ills of the province. It

could do no harm to allow them to air their grievances since there was no doubt but that the convention was overwhelmingly in favor of the maintenance of the British connection. To attempt to suppress all reference to the question would only outrage their feelings at a time when the exigencies of party politics recommended, in the words of President Moffatt, "the wisdom of cultivating the most cordial relations with the annexationists with a view to joint action against the government at the next election."

The question came up at the very opening of the convention on a resolution of Mr. Gamble relative to the condition of the province. Everywhere, Mr. Gamble declared, the people were talking of separation and annexation, and the government seemed powerless or unwilling to suppress discussion. Although he regretted the appearance of the manifesto, he hoped that the convention would be allowed full liberty to discuss the question. The leaders of the League "regarded it as a dernier ressort and were not going to buck the question." Several delegates spoke favorably of the calm and moderate tone of the manifesto and frankly admitted that annexation would come, if not at once, at least in the not distant future. "It was probably the only remedy that the country would finally adopt." For his part, Mr. Hamilton declared, he did not wish to prate of loyalty when the farmers of the province were suffering from the British connection, whereas their American cousins were prospering. Similar sentiments were expressed by Messrs. Gowan, Wilson and Duggan. The question of separation, it was contended, had been reduced by England to a purely commercial basis; and since England had sacrificed the interests of her colonies for selfish reasons, it was not unpatriotic for Canadians, likewise, to consider the question from a business point of view. Personally, Mr. Wilson stated, "his sense of loyalty was second to that of the interests of his family." Unless England reversed her fiscal policy, there was every probability that the Canadian public would demand a union with the United States. The question of annexation also attracted more than ordinary interest, as we have seen, in the debates on a federation of the provinces and on an elective council.

But the loyalists of the convention were not satisfied with a simple denunciation of annexation in the course of the debate; they insisted upon committing the convention to the maintenance of the British connection. A resolution therefore was introduced by Mr. Miller which read: "that it is a matter of regret to this convention that the subject of a separation of this colony from the motherland and annexation to the United States of America has been openly advocated by a portion of the press and inhabitants of this province; and this convention unhesitatingly records its entire disapprobation of this course and calls upon all well wishers of this country to discountenance it by every means in their power."

The purpose of the resolution, Mr. Miller declared, was to clear the convention of the prevalent suspicion that the League, if not favorable to separation, was at least not opposed to it. This was the more neces-

sary since some of the delegates were desirous of hushing up the question with a view to the further dissemination of the erroneous impression as to the neutrality of the convention. Should such an impression be allowed to gain further currency it would seriously militate against the usefulness of the League. Notwithstanding the professed peaceful aims of the annexationists, there was not, he maintained, the slightest possibility of the peaceful consummation of their policy. "They were dissolving the bonds of society and revolutionizing the country not for the purpose of maintaining the great principles of civil and religious liberty, but for the mere chance of commercial advantage." Annexation, he contended, would not redound to the great economic advantage of the Canadian public as was so loudly claimed by the annexationists, since it would sacrifice the agriculturists of the province to the preponderant farming and manufacturing interests of the United States. He accused the annexationists of perverting the views of the English government and people in regard to the separation of the colonies. The leaders of the Liberal party in England were not anti-imperialists. They had merely disclaimed any intent or desire to hold the colonies in an unwilling subjection. They were not anxious to get rid of the oversea dominions in proposing to extend to the colonies a larger measure of local autonomy. He did not agree with many of his fellow Conservatives that annexation was a mere matter of time; on the contrary, he was convinced that time would develop a deeper sense of attachment to the Mother Land, such as had appeared during the war of 1812.

Mr. R. Macdonald supported the resolution in a ranting pro-British speech. There was not, he believed, a single member of the convention who was an out and out annexationist although there were several who were suspected of annexation sympathies. He hoped to reclaim many of the annexationists (some of whom had signed the recent manifesto out of pique and others with a view to forcing the English government to take notice of the sad condition of the colony) by holding out to them the prospect of the future prosperity of the country. The vaunted prosperity of the United States was fictitious, the result of heavy borrowings of English capital. It would indeed be ungrateful for Canadians to secede at the moment when England had granted to them the full right of self government. Annexation would be disastrous to the interests of Canada. They would lose control of the public lands, the custom duties and the postal system of the province. The liberal grants from the imperial treasury would be cut off. Taxation would be increased and they would be burdened with a part of the United States debt. Even though England should consent to a peaceful separation, which was most improbable, the Canadian people, he declared, would never agree to convert the free soil of the province into a slave state. In conclusion he appealed to both political parties "to clear their skirts of the annexationists" and to unite in pressing upon the British government the necessity of procuring an entrance into the American market for Canadian products.

At this point, Messrs. Gamble and Mack attempted a diversion by

making an attack upon the policy of the English government in inflicting gross indignities, both of a political and economic character, upon the loyal people of Canada. The chief danger of annexation, the latter declared, arose out of the supercilious attitude of the English government toward the colonies and the fatuous policy of the Manchester School. An amendment was proposed by Mr. Hamilton "that it is wholly inexpedient to discuss the question of annexation at this convention, the loyalty of whose members cannot be questioned and amongst whom as a body there is found no individual to advocate any such obnoxious principle." In his judgment, the convention was fully justified in using the threat of annexation as a means of bringing the English government and people to a proper sense of their responsibility to the colony, a view which was largely shared by Mr. J. Duggan and other delegates.

But the convention was suspicious of the amendment. It refused to be diverted from its purpose by the clever attempt of some of the speakers to arouse the smouldering resentment of the delegates against the English government. The great majority of the members were convinced that the League could not afford to shelve the question of annexation again, but must now frankly declare its decision. The amendment was accordingly defeated by an overwhelming majority, only four or five votes being cast in its favor. The original resolution was thereupon adopted unanimously.

The vote of the convention accurately reflected the loyal spirit of the League. There were a few extremists in that body; on the one hand, a small coterie of secret annexationists who would have liked to incite their fellow members to open hostility to the English government; on the other, a group of ultra loyalists, like Colonel Playfair, who would have gladly suppressed any reference whatever to the question of annexation as involving a reflection upon the loyalty of the Canadian people. But the great body of delegates were willing to admit that the subject was worthy of serious consideration as a possible solution of the ills of the country. Yet they were altogether too patriotic to think of adopting such a policy so long as there was any reasonable possibility of saving the country in any other way. The decisive vote of the convention settled the question for the League. Henceforth the annexationists desisted from any active efforts to influence its policy.

The last day of the convention was given up mainly to routine business. A resolution, however, was unanimously adopted to the effect that the retention of Lord Elgin as Governor General was injurious to the interests of the province and calculated to undermine the loyalty of the Canadian people. A resolution was also agreed to in favor of increasing the membership of the Executive Council of the League to twenty members. Mr. Moffatt was strongly urged to reconsider his resignation of the Presidency. The election of officers resulted in several changes, the chief of which was the substitution of Messrs. Gamble and Benjamin for the Hon. W. Allan and the Hon. W. Morris in the list of vice-presidents.

A review of the work of the convention reveals the fact that but

little was accomplished. The former political platform was approved. The condemnation of annexation was the chief contribution of the convention. No substantial progress was made with the question of a federal union. The delegates had nothing definite before them; they did not even attempt to formulate a plan of union or to prepare instructions for their representatives to the Halifax conference. They left the whole subject in the same nebulous state in which they found it. The resolutions and discussions covered much the same ground as at the preceding convention. The debates bear witness to the fact that there was a growth of democratic sentiment among the members, but otherwise the consensus of opinion was practically unchanged. The convention in truth was not a constructive body; it was merely a miscellaneous collection of mediocre, censorious men. A signal lack of leadership and statesmanship was displayed throughout the proceedings. The convention was engaged in fighting out its own internal differences rather than in finding a remedy for the evils of the country. The delegates must have returned home with a sense of keen disappointment. They had not succeeded in settling their domestic troubles and had entirely failed to formulate a constructive policy for the rehabilitation of the Tory party and the salvation of the country.

Immediately after the close of the convention, Mr. T. Wilson, of Quebec, addressed an open letter to John Redpath, President of the Montreal Annexation Association, in which he appealed to that gentleman to drop the agitation for annexation until the policy of the League had had a fair trial. "All are agreed that we cannot remain as we are and many that annexation may be necessary, but only as a last step." But the appeal only called forth a sarcastic reply as "to the futility of the various nostrums" which were occupying the attention of the League. At a subsequent meeting of the Montreal association, the question of the relation of the League to the annexationists was brought up by President Moffatt. "He deemed the expression of an opinion on the annexation movement premature at present but thought that the annexationists might have continued to act with them." He hoped that the day was far distant when the colonists would seriously think of annexation, but if the unfavorable policy of England should force them to do so, he would consider the question entirely as a Canadian issue. But before reaching any final decision, they ought first to ascertain what Great Britain could and would do for the colonies.

The ensuing discussion showed that there was some difference of opinion among the members as to the proper attitude of the League toward the annexationists, but almost all the speakers expressed themselves as strongly opposed to annexation. The election of officers resulted in the selection of a pronounced pro-British executive, the former annexation officers being quietly dropped. By this decisive action the Montreal Association finally freed itself from the suspicion of annexation proclivities. Several of the local branches of the League in Upper Canada likewise took occasion to express "their most decided disapprobation of all attempts being made to sever these British American prov-

inces from the mother country with a view to joining the Republic of the United States of America."

The question of an elective legislative council was duly referred to the several branches of the League with the result that a majority of the local associations declared in favor of the elective principle. The rising tide of democracy had undermined the old Tory party. But the victory of the democratic section of the party failed to bring peace. Although defeated, the Family Compact did not give up the fight, but determined to prevent, if possible, the calling of another convention to ratify the decision of the branch associations. The struggle for political mastery still went on within the party. Every day it became more difficult for the hostile factions to co-operate. Torn by internal dissensions and weakened by the withdrawal of several of its most influential officers, the League could no longer command the confidence of its members.

Early in May the central committee of the League issued a manifesto in which they called upon the members "to urge our Legislature by petition to pass an address to our Governor-General and both Houses of Parliament praying them to authorize by an imperial act the people, to whom they profess to have already granted self government, to hold a general convention of delegates for the purpose of considering and proposing a constitution for the government of this province and with power to act in concert with delegates from such of the other British provinces in North America as may be desirous of forming a federal union with Canada, such constitution to be afterward submitted to the people for ratification." In addition, they again strongly advocated the advantages of a policy of protection for Canadian industries and the necessity for retrenchment in public expenditures, if the province was to recover its lost prosperity.

This manifesto marks the end of the activity of the League. Its propaganda had already ceased. The provincial executive was composed of conflicting elements. It had no outstanding leaders and no effective policy to present. It had nothing to show for all its efforts. The Reform government, as was to be expected, paid no attention to its recommendations. The executive committee, in fact, was powerless to take any further steps to carry out the program of the League, and allowed matters to drift helplessly along. The League had lost prestige; its proceedings were no longer a subject of public interest and discussion. Even the Reform press ceased to poke fun at "the Children of the Sun." It was useless to ridicule or abuse a dying organization. The local associations were left to their own devices and soon fell into a state of apathy and decay. It is impossible to trace out the records of the disappearance of the League. The process of demise was unnoteworthy. The League was never formally disbanded. The membership simply fell off quietly but rapidly so that by the end of the year the League had died of inanition. When the general election came on in 1856 the members of the League were found once again lined up with their comrades in the Conservative party. The League as a separate organization played no part whatever in that campaign. Even its political program was almost en-

tirely neglected. It had been but an ephemeral body and its brief history was soon forgotten.

The causes of the failure of the League are not difficult to discover. In its very origin it was an artificial organization and it never lost that character. Although nominally a non-partisan body, in reality it was an attempt to reconstruct the Tory party on a more popular basis. But that attempt rent the League in twain. The conservative and democratic wings of the organization would not willingly coalesce. They stood for different principles and maintained different ideals. The Tory section of the party always looked upon its opponents with a certain amount of scorn and suspicion as inferior in social and political standing and as tainted with republicanism and other revolutionary designs. Few of the leaders of the Tory party identified themselves with the League in any way; the great majority of them stood coldly apart and allowed the League to work out its own destiny. Even those who, like Allan, Morris and Macdonald, were at first connected with the League, subsequently dropped out of any active participation in its affairs. The democratic section of the League, on the other hand, had no sympathy whatever with the leaders or policy of the Family Compact. They desired the overthrow of the old regime and to create a new political party in sympathy with the democratic spirit of the time. The two wings of the party were too evenly balanced in numbers and influence for the one to dominate the other. The struggle between them was indecisive; it could not go on indefinitely without soon destroying the League.

Unfortunately for the League it failed to develop able leaders to deal with the complicated situation. The President and the other executive officers were men of honorable character and influence in the colony but they were neither astute politicians nor statesmen; they were inexperienced men of mediocre talent who had played but a minor part in the political life of the province. They could not make a commanding appeal to the general public or call forth the devoted services which are gladly rendered to a great party leader. The Hon. John A. Macdonald was the only outstanding member of the League and he failed to take the prominent part in its affairs which his preeminent ability and political astuteness would have warranted.

The policy of the League likewise failed to arouse popular enthusiasm or public interest. Although attractive in appearance, the scheme of a federal union, upon which the reputation of the League chiefly depends, fell signally flat on the electorate. The general public were not prepared to accept offhand such a far reaching constitutional proposal. They were almost entirely in the dark as to the national significance and importance of the proposed federation since no preliminary efforts had been made to educate them as to the advantages of an intercolonial union. Even the League, as we have seen, brought forward the scheme without any adequate consideration of the feasibility and character of the suggested federation. The scheme was presented and adopted as a political makeshift rather than as a careful piece of constructive statesman-

ship. In truth, it must be confessed that the plan of a federal union was probably due as much to the desire to forestall the anticipated action of the provincial government along similar lines, as to a conviction on the part of the convention as to its merits as a truly national policy. The convention was under the immediate necessity of formulating an alternative policy to the popular demand for reciprocity or annexation.

There was at the time a rumor to the effect that the British government was about to propose a plan of union. Earl Grey, Secretary of State for the colonies, was a well known federationist. The previous year he had brought forth the suggestion of a general assembly for the Australian colonies and it was generally believed in official circles that he favored some similar arrangement for the North American provinces. The action of the provincial government in sending two of the ministers to the Maritime provinces to negotiate a reciprocal trade agreement seemed to confirm the belief that a federal union was on the tapis. Several of the papers of the Maritime provinces lent credence to the report that the question of federation had been officially discussed by the representatives of the several governments, though with what result was not yet known to the public. These rumors were not without influence upon the members of the convention in predisposing them to accept the policy of federation. They hoped to dish their political opponents by a previous declaration in favor of a federal union. But the shrewd plans of the League miscarried owing to the apathy of the Canadian public and the suspicion of the people of the Maritime provinces who would have nothing to do with the project. The proposal to hold an inter-colonial conference was treated with indifference in every quarter and in a few months time the whole scheme of federation was practically forgotten, though Messrs. Perry and Sherwood attempted to revive it somewhat later.

The policy of colonial protection did not prove as attractive as had been anticipated. In some of the larger commercial centres it was received with considerable favor but in the rural districts it was generally regarded with suspicion. The farmers of the province were much more interested in the efforts of the government to secure an immediate market for their products in the United States than in the promise held out by the League of the future development of a home market by means of a protective policy. Moreover, the recent adoption by Great Britain of the principle of free trade had shaken the confidence of many of the colonists in the efficiency of a policy of protection.

The remainder of the platform of the League contained nothing new or distinctive in character. Some of the more important proposals were stolen from their political opponents. The questions of retrenchment and elective institutions were the peculiar tenets of the Clear Grit party and for some time past had occupied a prominent place in its campaign against the extravagance and conservatism of the Government. Notwithstanding its liberal tendencies, the League could scarcely pose as a democratic organization; at least it could not hope to compete with the radical Reformers in an appeal for democratic measures.

The chief political interest of the time centered in the struggle between the Baldwin Reformers and the Clear Grit party. Many of the latter had gotten entirely out of hand and were no longer subject to party discipline. They freely assailed the policy of the Ministry and demanded an immediate settlement of the vexed question of clergy reserves on pain of the overthrow of the Government. In vain Mr. Baldwin pleaded for moderate counsels. The Clear Grits would be satisfied with nothing less than the overthrow of the whole regime of ecclesiastical privilege. Every day it became more apparent that the Reform party was on the point of disintegration. The demoralization among the Reformers lent fresh hope and courage to the Tories. The latter were gradually recovering from their defeat and humiliation. The leaders of the party again saw the prospect of a restoration to office through the assistance of the conservative wing of the Reformers. Throughout the province the work of reorganization went steadily on; the rank and file of the party were again drummed into line; new recruits were rapidly gained among the disgruntled Reformers; the officials and members of the League rallied once more to the old party standard. The League ceased to exist as an independent body; it was insensibly absorbed into the revived Tory party.

Although the League had but an ephemeral existence its influence on the course of Canadian history was by no means inconsequential. To it may be credited three distinct contributions to the political life of the country: first, the democratization of the Tory party; second, the proposal of a federal union of the British American provinces; third, the advocacy of an independent fiscal policy based on the principle of colonial protection. Undoubtedly it exercised a considerable influence in other directions, notably in resisting the growth of annexation sentiment, but these three factors are, it is believed, the outstanding features of its short-lived career.

Of these three contributions the most important, in its immediate results at least, was the rejuvenation of the Tory party. The new spirit of democracy had swept away the dogmas of political and ecclesiastical privilege upon which the Family Compact had been based. The party had been discredited but not extinguished by its defeat and subsequent humiliation. Although of Tory origin, the League developed democratic sentiments and liberal principles. The question of an elective legislative council was only one phase of the great struggle between democracy and privilege. The League, in reality, completed the disorganization of the old Tory party. It stifled the spirit of arrant Toryism; it threw off the colonial traditions of the past; it introduced a more progressive element into the leadership of the party; it advocated a more liberal and enlightened policy in accordance with the spirit of the age; it broke the dependence of the party on the policy and support of the Colonial Office and it made possible the reorganization of the old Tory party upon a more popular national basis. In short, it created a national Conservative party, differing little in purpose and policy from the more moderate wing of the reformers. From the day of that reorganization it became

almost inevitable that many of the moderate Reformers should pass over into the ranks of the Conservative party. The genius of Sir John Macdonald made the process of transition an easy one. Out of that coalition arose the Liberal-Conservative party of today.

The project of an intercolonial union did not owe its origin to the League, but to the League belongs the credit of first attempting to popularize the policy and make it a distinct political issue. The effort signally failed for reasons we have already discussed but nevertheless the attempt was not altogether fruitless. The scheme was undoubtedly premature for the people of Canada and the Maritime provinces were strangers to one another. Neither social nor economic relations were sufficiently intimate to have developed a community of feeling and interest. Both Canada and the provinces by the sea had much closer relations with Great Britain and the United States than with each other. The imperial connection was the all sufficing bond of union at the time. A national consciousness had not yet arisen. But thanks to the propaganda of the League, the Canadian public were familiarized with the idea of a federal union and were made conversant with some of its chief advantages. The seed, which was sown on unfavorable soil, subsequently sprang up and bore abundant fruit in the confederation of Canada under the British North America Act of 1867.

Under the old Mercantile System of England, the colonies, as we have seen, had been treated as economic appanages of the mother country. But upon the adoption of free trade in Great Britain the colonies were granted fiscal freedom and entrusted with the right of framing their own tariffs. The Reform party in Canada was naturally favorable to the economic principles of its Liberal friends in England, while the Tories, on the other hand, naturally clung to the policy of preferential trade. At the outset, some of the Boards of Trade of the chief commercial cities joined with the Tory party in demanding the restoration of the former colonial system, but the clamor was in vain. The leaders of the League were keen enough to see the folly of further appeals to the British government; the latter was fully committed to the principle of fiscal freedom and would not revise its policy. The colonies were to be no longer treated as favored children of the mother land; they were to be left to work out their fiscal and political salvation by their own unaided efforts. The apron string regime was over; the colonies were cut loose for all time.

Widely divergent were the policies now proposed to meet the emergency. The Reform Ministry pinned its faith to reciprocity, and opened up negotiations with the government at Washington, as also with the Maritime provinces, for the free exchange of a limited list of natural products. A section of the commercial community started an active campaign in favor of annexation. The ultra Tories denounced the policy of the English government in threatening and oftentimes seditious language, and demanded the restoration of the old colonial system.

The League rejected the continental and imperialistic policies alike. It came out in favor of a national policy of protection to be based solely and exclusively on the needs of the province itself. This declaration of fiscal independence was undoubtedly due in part to a spirit of hostility.

ity toward the English government and to a feeling of pique at the action of Congress in rejecting the proposals for reciprocity. But it was mainly due to a desire to build up a strong self contained nation, economically independent of the United States and Great Britain and free from the meddlesome interference of the Colonial Office and the Imperial parliament. With the collapse of the annexation movement, the annexationist press of Montreal and the majority of the wealthy and influential members of that party joined forces with the Conservative party in demanding an increase in the tariff. For a time the growth of protectionist sentiment was retarded, especially in the rural districts, by the marvelous expansion of trade which took place under the Elgin Reciprocity Treaty of 1854. But the desire for protection continued to grow in the chief industrial centers of the country and with the abrogation of the Reciprocity Treaty in 1866 the question of protection was forced to the front by the Conservative party and became the dominant political issue of the day. The national policy of Sir John A. Macdonald was the legitimate product of the economic principles of the League.

We may then conclude in the language of Sir John A. Macdonald that the principles which were laid down by the British American League in 1850 are the lines around which the Liberal-Conservative party has moved ever since.



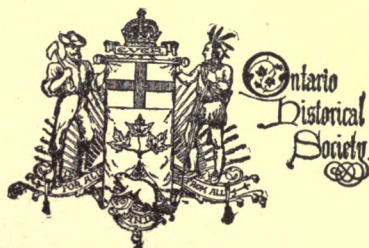
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## ROBERT (FLEMING) GOURLAY.

By the Honourable William Renwick Riddell, LL. D., F. R. Hist. S.,  
etc.

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### PREFACE

The story of Robert (Fleming) Gourlay is full of interest from more points of view than one.

The alienist will recognize a typical case of want of mental equilibrium approaching and sometimes indeed trenching on actual insanity. Of a neurotic temperament, "touchy," self-opinionated, wholly unable to understand why he should not be ever on the centre of the stage, why his methods should not always be adopted, Gourlay in his judgment of men and causes while undoubtedly honest must be regarded with very great caution.

Were this the only side to his character and his career, the author would not have written this monograph, or the Ontario Historical Society printed it.

It is not without reason that Dent begins his story of the Upper Canadian Rebellion with a chapter on The Banished Briton. For, much as Gourlay detested disloyalty and much as he despised William Lyon Mackenzie, it was the work of Gourlay, and, more, his treatment by the authorities which helped to rouse the people of Upper Canada and incline them to listen to a call to vindicate their rights, if necessary, by arms. It would be to expand this brochure to much too great a volume, were the endeavour made to trace the threads connecting the efforts of Gourlay and the success (such as it was) of the "Patriots" of 1837-8: that, it is to be hoped, may be done by someone with an intimate knowledge of Upper Canada in the first four decades of the 19th century, and a sympathy with the desires of many Upper Canadians of those times to be freed from official tyranny, intolerance, incompetence and greed.

It is probably worth while to show the extraordinary power long possessed by one man, the Reverend Dr. John Strachan. It seems plain that it was from the circumstance that Gourlay treated him with contumely and did not try to conciliate him, that much of Gourlay's troubles arose. The Reverend Councillor seems to have been at first the only one to scent mischief in Gourlay's scheme for a statistical account; and the injudicious defiance by the new-comer increased the suspicion—which the divine was able to make certainty in the minds of practically all in authority at that time.

It is also worth while to clear the name of the earliest lawyer-judge, one of the earliest Chief Justices, of our Province, from the odium cast upon it by uninformed and credulous writers. Some day, it is to be hoped, the part taken by William Dummer Powell in the development of this Province (in the Courts and elsewhere) will be worthily commemorated and fully acknowledged.

The vivid light cast upon early Upper Canada, politically, socially, legally, by the events of Gourlay's career should be welcomed by all who take an interest in our early history; while some of the antics of Gourlay in the old land are as amusing as a romance. His whole life is a study in agitation; he was a "crank," but just failed of being that kind of a crank which produces a revolution, by making himself and his wrongs the important matter, not an oppressed class and the wrongs of that class.

He was a kind-hearted man, devotedly loved by his own, intensely conscious of the woes of the poor in England and desirous of bettering their condition (but in his own way only); truthful in matters of fact, incapable of telling a wilful falsehood, his ardour led him into misconception, suspicion, injustice; the *perfervidum ingenium Scotorum* he had to almost as great a degree as the Dean of St. Patrick's, and he but just escaped the penalty paid for the *saeva indignatio* of Swift.

It is confidently hoped that no errors of fact are here contained; if such there be, correction will be welcomed. It is too much to expect that all will agree in the conclusions drawn from these facts.

WILLIAM RENWICK RIDDELL.

Osgoode Hall, February 22nd. 1916.

## Part I.

## CHAPTER I.

## Early Life in Great Britain.

The name of Robert Gourlay is one of the best known in the early annals of Upper Canada. He prided himself on his saying, "Man is a recording animal," and true to his definition he recorded in his own way what seemed to him of importance in his life; he wrote a very useful book and a large number of pamphlets of more or less value. There does not seem to be any reason to doubt his perfect sincerity, and from his records a reasonably accurate account of his career can be drawn up.

He was born March 24th, 1778, (1) in the Parish of Ceres in Fifeshire, Scotland, "an eleve of the oldest and least attained family of Fifeshire." (2) The family is said to have come to Fife at an early date and claimed descent from Ingleramus de Gourlay, who came to Scotland with Prince William (the Lion) about 1174. (3) Gourlay is proud that one of his forefathers, Norman Gourlay, burned with David Straiton at Edinburgh in 1534, was a martyr for the cause of religious liberty. (4) His father, Oliver Gourlay of Craigrothie, had been a Writer to the Signet for more than a dozen years; but having acquired considerable wealth and thinking "he could not continue his business and be an honest man" (5), he bought a good deal of land in Ceres Parish, Fifeshire, and devoted himself to the improvement of his property by scientific farming. He was a Magistrate of the County for many years before his death.

Robert was educated at St. Andrews, being seven years in school and college there, and taking the ordinary course of philosophy in the University. He had as fellow-students several men who afterwards made their mark in the world, amongst them Dr. Chalmers and Wilkie, the painter. (6) Afterwards he took a two-years' post-graduate course in the University of Edinburgh in Agriculture and Chemistry, attending the lectures of Dr. Coventry, the first Professor of Agriculture, and "the profound Mr. Robinson." (7) He says that there was no need for him to do anything as his father could well support him, and that he engaged in agriculture from the love of it. We find him in 1794 after leaving Edinburgh, in Midlothian for some months studying the general practice of husbandry in that district. (8) His father prevented him from following his own earlier profession, although he got "a smack of Scots' law from the lips of Professor Hume in 1797" in Edinburgh. (9)

He then, for fifteen months, in 1800 and 1801, made an extensive tour in England and Wales; falling in with the celebrated Arthur Young, Secretary of the Board of Agriculture, he was through Young's influence employed by the Board for some months to examine into the success of the plan in Lincoln and Rutland of furnishing the poor with

cows and a small plot of land and to report upon plans for bettering their condition. He made a report in March, 1801, which the Secretary published in 1802 without consulting him or giving him an opportunity to revise it. This excited Gourlay's anger at the time, but afterwards he speaks of this publication with great pride, and notes Young's "singular pleasure in inserting it" in his "Annals of Agriculture." (10). He tells us that in 1801 he devoted his life to bettering the condition of the poor in England, (11) and there is much in his after-life which indicates his honesty in this assertion.

He returned to Scotland in 1801 and accepted the farm of Pratis from his father; he was "the young laird" and his father's heir (12) and became an extensive farmer. In 1799 (October 10th) he had received a Captain's Commission to command a Corps of Volunteers in Fifeshire, but by reason of his long absence he had resigned it. When war was declared in 1803 he preferred to join a troop of Yeomanry Cavalry as a private to receiving a renewed Commission in the Volunteers. In 1807 the officers of the Yeomanry failed to appear for duty, and Gourlay withdrew from the troop after vainly endeavouring to persuade his comrades to deposit their arms in the County Hall, informing the Government at the same time that they would resume them on a moment's notice and those who were under arms would cross over to France to put down the power of Bonaparte. (13) His Commission as Commandant, Gourlay appeals to time and again in his after career.

In 1807 he married Jean Henderson, a widow, whose mother was a sister of the Hon. Robert Hamilton of Queenston, and she, herself, a second cousin of William Dickson and of Thomas Clark. She owned about 400 acres of land in Dereham Township, County of Oxford, Upper Canada, and in 1810 Gourlay bought from the heirs of her first husband and paid for in Edinburgh an equal quantity of land adjoining hers. (14) On his marriage his father settled £300 a year upon him and also gave a "heritable bond" for £4,000 in favour of the children of the marriage, Gourlay joining therein, although he claims that as he was his father's heir it was not necessary.

In 1808 he fell out with the Earl of Kellie. (15) The Earl, whose predecessors had sold all the estate except the Manor House, was a heritor of Fife; occupying the chair at a meeting, February 15th, 1808, of the heritors, he adjourned the meeting while Gourlay was speaking. This Gourlay took as an insult, and at the next meeting demanded a public apology; this being declared out of order, he withdrew. At the next meeting he put a written question to the clerk whether a president could adjourn a meeting *proprio motu*; this the chairman, Mr. Wedderburn, waved aside. At the next meeting Lord Kellie was in the chair, and Gourlay asked the same question; and entered his protest upon the books against Lord Kellie's irregular conduct towards him.

The matter rested for some months. In October, 1808, when Gourlay was about to leave the country, he sent a written demand to the Earl for a public apology "in terms clear and explicit," saying "it is

absolutely necessary that your apology be inserted in the newspaper." The Earl replied that he was not sensible of having insulted him, "therefore I can make no apology," and added: "Had you stated in what manner you considered yourself insulted, I should have answered you." Gourlay thereupon published a letter, already prepared, extending to 63 octavo pages.<sup>(16)</sup> He denies that "he has been guided by petulance and kept in irritation by a spirit of self-importance and vanity" (p. 11), but it is hard to accept this statement in view of the extraordinary contents of the letter—it was "a most daring outrage" (p. 12); the Earl, "hurried by foolish passion . . . had the presumption to adjourn the meeting" (p. 15), "a gross violation of decorum" (p. 16), and does the Earl think his character worthy of being called to the chair? (p. 17), the nobility is doomed (p. 22) and the Earl had better resign. A few pages are devoted to the ostensible subject of the letter, but no one can read the production without recognizing that its main object was an attack on the gentleman who had offended him months before. And thus early appear several characteristics of Gourlay which are noticeable throughout his career, unbounded self-confidence and self-consciousness, inability to understand that anybody could honestly differ from him, never-dying remembrance of anything which he considered to be an insult or other injury, unsparing attack on every offender, lack of judgment in such attack, and withal, thorough conscientiousness throughout.

He lived in respectability in Fife for eight years, having, as he says, "a standing invitation to dine with the Lord Lieutenant"; and his farming is spoken of in the highest terms.

In 1802 the Duke of Somerset invited farmers from Scotland to occupy his estate in England for the purpose of introducing improved methods of farming; in 1803 he expressed a desire that Gourlay should become his tenant, and in 1804 offered him a farm in Wiltshire; but it was not then convenient for Gourlay to accept. In 1809 Gourlay had been advised to remove to England because of his health,<sup>(17)</sup> it is possible that his quarrel with Lord Kellie had made his residence in Scotland less pleasant, and he made an agreement with the Duke. The reasons given for removal are varied, health, a finer scope for his exertions (this, given by Sir John Leslie, Gourlay repudiates "In Scotland I had finer scope, my father having twenty ploughs going on his own property" <sup>(18)</sup>), to study the poor-law system,<sup>(19)</sup> etc.—probably all contributed to the result.

A written agreement was drawn up by the Duke's agent and signed, May 17th, 1809, by the Duke and Gourlay for a lease of the Deptford Farm of 700 acres in Wily Parish, Wiltshire, for 21 years from October 10th, 1809, Gourlay to be allowed for putting the buildings into repair and for certain improvements. Other clauses not now of importance are to be found in the agreement. The tenant went into possession of the land on the day fixed, and afterwards of the buildings, and made improvements. A lease was drawn up according to the agreement and signed by the Duke, October, 1811; Gourlay was asked to sign the counterpart and accept the lease, but he refused "stating that he con-

sidered the agreement sufficient for him." (20) He says he had been assured by the Duke's solicitor that "he would see him through any Court in England with that agreement" (21); but he was soon to learn the difference in English law between a lease and an agreement for a lease. The Duke complained of his digging chalk, cutting down timber, pulling down buildings, sub-letting part of the farm, etc., etc., and served a notice to quit for October, 1812. Now, Gourlay took advice and learned the result of his folly in refusing to carry out his agreement and execute the formal lease. Under the English law a tenant who enters under an agreement for a lease is a mere tenant at will till he pays rent, and then a tenant from year to year whose tenancy can be put an end to by a proper notice to quit. This folly was the cause, direct or indirect, of much of his subsequent trouble. He was forced to file a Bill in Chancery to compel the Duke to give him the lease he had himself refused. Some writing about this suit speak of it as the Duke throwing the case into Chancery and the like, and look upon it as an act of oppression. Gourlay himself suggests but nowhere says explicitly that the suit was the act of the Duke, and it certainly was not. An injunction was obtained against the Duke ejecting Gourlay by process of law under the notice to quit, and, December 10th, 1812, the case came on for argument at Lincoln's Inn Hall before Lord Eldon. Gourlay retained Sir Samuel Romilly and another; the defendant was represented by three Counsel, and the Lord Chancellor decided instantaneously in favor of the plaintiff. The Bill had claimed not only the lease but also damages for not obtaining possession of the buildings on the day set. These damages were sent down to the County of Wilts to be assessed by a jury. The case came on at Salisbury in June, 1816, when Gourlay was represented by Sir Robert Gifford, Solicitor-General, but soon to be Attorney-General and finally (as Lord Gifford) Chief Justice of the Common Pleas and Master of the Rolls: a special jury allowed £1,325 certain and £625 subject to the opinion of the Court. This latter sum was disallowed by the Master of the Rolls later in the year. The Master made a "short order" for £1,325, but a "long order" was necessary. Sir Samuel Romilly moved in February, 1817, before Lord Eldon for this "long order." The Lord Chancellor proposed a delay of six weeks, whereupon Gourlay, who was present in Court, rushed in between Sir Samuel and the Court, and spoke for himself so earnestly and effectively that the "long order" was granted at once. (22) This scene seems to be the only foundation for the statements later on in some of the London newspapers about Gourlay insulting Lord Eldon day after day and putting him in bodily fear.

In the meantime the "reference" as to the lease was going on. The matter was brought at least once before the Master of the Rolls, Sir William Grant, (23) who directed the case to be settled entirely by the Master of the Court. We shall see more of this suit later.

Gourlay was not neglectful of the interests of the poor. In March, 1815, he published a small pamphlet of fifteen pages on the Tyranny of the Poor Laws, (24) in which he relates shocking cases of the cruel operation of the poor-laws, compares the condition of the labouring classes

in Scotland and England very much to the disadvantage of the latter, and promises in a few weeks to draw up a petition to Parliament for the poor in Wilts. The petition was drawn up and somewhat numerous signed; it was presented on May 30th, 1815, to the House of Commons by Mr. Methuen, the local member, and shortly thereafter to the House of Lords by Lord King. It asked that overseers of the poor—Gourlay himself had become an overseer—should not have the power to call out children under 12 to work during the winter half-year, when the parents put them to school during that time. The petition had no effect.

In the following year, 1816, he published another pamphlet, "Poor Laws No. 2" (25) of twenty-one pages, in which he pursues the same subject and sets out the former petition at length. He urges further petitions to the same effect. From this pamphlet it appears that the average rate of pay in Wiltshire at that time ranged from 6 shillings to 8 shillings per week, and wheat was 20 shillings a bushel.

In 1817 he became more ambitious. In a pamphlet of forty pages, published in that year, (26) he advances a project that each parish should acquire one hundred acres of land, to be divided into two equal parts, fifty acres for a common pasture, and fifty divided into half acre allotments. An allotment was to be given to each male parishioner paying forty shillings rent and agreeing to keep it in good garden culture: As soon as he paid £100 he should have a house built for him on his lot, and he was to have the right to pasture a cow on the common. There are some other provisions of less importance. He urges petitions along these lines, one from each parish. Such a petition, signed by ninety-eight persons, was presented to the House of Commons, February 28th, 1817, and ordered to lie on the table. A copy had been sent by Gourlay to over six hundred members of the House. Sir Francis Burdett had been expected to present it, and it was handed to him by Gourlay. On February 10th he rose to present it, but did not, as he had not time to read it. Then Gourlay saw Lord Cochrane, and he declined. Paul Methuen, the local member, was waited on, but he had to be out of town; then Lord Folkestone was applied to, and he refused. Methuen ultimately presented the petition, and Gourlay proceeded to publish another pamphlet, Poor Laws No. 4, from which the above facts are taken. (27) He does not spare Burdett, Cochrane or Folkestone, and urges the poor to keep on petitioning. A broadside addressed to the Labouring Poor of England, along the same line, was issued about the same time.

He had also a controversy over tithes with the Archdeacon of Wilts, the Reverend William Coxe. (28) Having published a pamphlet, "An Apology for Scotch Farmers," and sold a number of copies in London and elsewhere, he wished to advertise it in the Salisbury Journal. The proprietors refused the advertisement; he entered a vigorous protest and published the correspondence together with a letter on the Corn Laws, also rejected by the Journal. (29) He had been a member of the Bath Society, an association of country gentlemen and farmers, but he was

expelled from that society apparently not so much for his radical views as his manner of expressing them (30); he always afterwards spoke of the society and its members with the utmost contempt.

Although Gourlay claimed that he became a farmer under no necessity of living by farming, and, that when he came to Canada he had not only a fine farm but an income of £500. in addition to a provision for his children, it is obvious that by the end of 1816 he was in deep water financially. His "fine farm" was owned by the Duke of Somerset, and landlord and tenant were at daggers drawn—they had been at law for five years and more. He was somewhat largely indebted, and was being pressed by his creditors, though he seems to have had sufficient assets to pay all his debts if prudently administered. He was rather in disrepute with the gentry from his habit of speaking of and to those who considered themselves his superiors in a familiar and disrespectful way, but he was, no doubt, much esteemed by the labouring class. His father had disinherited him in 1814, influenced, it would seem, by injurious and anonymous accounts of his son's doings in Wiltshire. Gourlay found after his father's death two "franks" by the Duke of Somerset, which he is confident were used to carry these accusations. (31)

It became evident that he would be wise to seek another residence, and he bethought himself of Upper Canada. From boyhood he had lively views of this new land, he had in 1807 become allied by marriage with a family of prominence and wealth in Upper Canada, his wife had 433 acres of land there which was thought to be of great value. After the death of the Honourable Robert Hamilton of Queenston, who was Mrs. Gourlay's uncle, William Dickson, one of Hamilton's executors, took Hamilton's children by his second wife to Scotland for education. He came to Gourlay's place in Wilts early in 1810 to consult with Mrs. Gourlay's mother, the aunt of the orphans, who was living with her daughter. Dickson, who was Mrs. Gourlay's second cousin, suggested emigration to Gourlay, and expatiated on the delights of Upper Canada and the opportunities for the acquisition of wealth. (32) Although Dickson was not successful in inducing him to emigrate at this time, Gourlay always afterwards claimed that he was the cause of his coming to Canada.

Thomas Clark, another relative of Mrs. Gourlay, came in 1814 with his wife to the Deptford Farm, "wounded and faint," and remained there some time. He related to the husband of his kinswoman how he had made his fortune in Upper Canada.

The Duke, failing to pay the amount directed by the "long order," Gourlay put in execution his house with the desired result; and his affairs being as he thought in order, he left home for Canada. The reasons he gives for coming to Canada are different at different times; perhaps those given in 1844 may be accepted as not far from the fact: "1st.—Hoping that the Duke might in my absence submit to part with me finally on reference (to arbitration as to the farm). 2nd.—That Mr. Clark in Canada might aid, and 3rd.—That Mr. Wilson might." (33) Mr. Alexander Wilson was a cousin who was in partnership in the bank-

ing house of Anderson & Company, London; that house failed and Wilson lost his all, shortly after visiting the Gourlays in Wilts. One day in London he disclosed to his cousin the fact that he had won a lottery prize of £40,000. Gourlay was at the very time on the quest for money to meet a pressing debt of £400; he was arrested on mesne process, and Wilson paid off the debt and costs, thereby becoming Gourlay's creditor for £429.8.10. He afterwards paid the Duke for Gourlay a year's rent, over £300—for these sums, Gourlay gave bills. In January, 1817, he wrote Wilson that he could not pay either him or his other creditors, and suggested that Wilson should take over the farm and arrange with the creditors. This Wilson declined, and added that Gourlay was certainly possessed of effrontery beyond any he had ever met and was unworthy of his friendship. Gourlay replied, saying that Wilson's letter contained "the aspersions of a distempered imagination," and then thought that if he left England Wilson might be moved to aid. (34)

His leaving England with his affairs in a precarious shape assisted in bringing on many of his subsequent troubles.

Before leaving England, he wrote proposing that the Duke should agree to take the farm off his hands on terms to be determined by arbitration; this was not acceptable, and in October, 1817, a seizure was made for rent. This was paid by Mrs. Gourlay, who obtained loans from various sources. She was, however, so much frightened that she accepted an offer on the part of the Duke whereby one Andrews took over the lease and the stock, the lease for nothing and the stock on a valuation. The stock, which Gourlay claims to have been worth £3,000, was valued at £1,500, and that £1,500 was deposited as security that Andrews would carry out the terms of the lease. (35) The assignment was signed by Gourlay's solicitor, acting under a power of attorney drawn up in New York by Andrew S. Garr, and there executed by Gourlay. Gourlay asserts that he did not know the facts of the transaction till long after, and violently assails all concerned except his wife; but he also makes it plain that on Sir Samuel Romilly advising that his solicitor had no power to execute the assignment, the document was sent out and executed by himself late in 1818. (36) It is difficult to understand how he could have been ignorant of what was going on unless he was wilfully blind. All this, however, was after his departure for Canada.

## CHAPTER II.

### Life in Canada and First Addresses to Land Owners.

He left Deptford Farm April 2nd, 1817, intending to be from home only about six months <sup>(37)</sup>, and in fancied security that his affairs in England would go well in the meantime. From Liverpool, to which he travelled by way of London, he wrote his solicitor about arrangements to be made with his landlord. <sup>(38)</sup> He arrived at Liverpool, April 5th, just too late to catch a ship to New York <sup>(37)</sup>; awaiting a ship to Quebec, he visited a friend near Chester, and there saw and read his countryman Mellish's Travels in America. It occurred to him that the information there set out could best be obtained by queries, and during the ensuing voyage he drew up certain questions with the purpose of having them answered by his friends in Canada, as he then intended remaining in Canada only a week or two, proceeding westward to Detroit and the Ohio, then by way of Philadelphia and New York to England. <sup>(39)</sup> He sailed from Liverpool for Quebec, April 19th, and arrived at the end of May. He spent four days in Quebec and eleven in Montreal waiting for Thomas Clark, and he not appearing, Gourlay left for Upper Canada alone and on foot. On his journey he examined with care the banks of the St. Lawrence with a view to determining the locations for necessary canals. This examination enabled him to construct the diagram which afterwards appeared in his Statistical Account of Upper Canada. He adds characteristically: "Had that diagram and my map of Niagara District indicating the practical courses of navigation between Lakes Erie and Ontario been attended to, millions of money might have been saved." <sup>(32)</sup> <sup>(40)</sup>.

He entered Upper Canada, June, 1817. In that month he went to the new settlement of Perth on the Rideau with the intention of obtaining a land grant in that district, and received much attention at the hands of Captain Fowler, Superintendent of the Settlement. Captain Fowler told him that he could not receive a grant of more than 100 acres, which did not suit his purpose, "having been accustomed to large operations" <sup>(41)</sup> and having large ideas. Gourlay drew up at Perth, July 1st and 2nd, 1817, the Table of Emigration and Settlement, which was afterwards made part of his Statistical Account, and which is to be found at pp. 524, 525 of Volume 1 of that work, showing the commencement and progress of improvement in thirteen months of the emigrant settlement at Perth. He got to Kingston early in July, and went to Queenston to Mr. Clark's house, where he arrived by the middle of the month. There he was confined to his bed for two months. A nervous weakness which had got hold of him at Liverpool, but which his voyage and travels had dissipated, so much increased during his confinement, that he found himself totally unable to speak with Clark on the state of his affairs, "the prime object of my crossing the Atlantic." He accordingly wrote Clark, Sept.

1, 1817, with a statement of his affairs, and frankly asked for help. Clark manifested every disposition to give him help, but his means were locked up and land had become unsaleable in Upper Canada. (42) In Gourlay's statement of assets he inserted not only his own land in Upper Canada, but also his wife's "one-third of 2,600 acres of land in Canada." This was afterward made a matter of reproach to him, but she, upon application for that purpose, promptly ratified her husband's position. No trace of dishonesty was ever found in Robert Gourlay, and he "feared no man, either body or soul." (43)

Nothing daunted by his failure to obtain assistance from Clark, as soon as he was able he crossed to Lewiston, visited the American side of the Falls, spent a week in Buffalo, and made a foot-tour through the Genessee country for three weeks. We find him on October 9, writing from Auburn, N.Y., to his brother-in-law, Thomas Henderson, asking him to help his sister, Mrs. Gourlay, by consulting with other friends and say what should be done. (44) Unfortunately, he was leaning on a bruised reed, as was soon made manifest. Mrs. Gourlay was allowed to enter into the arrangements we have already seen, with disastrous results to her husband's financial position. He had in the preceding month, September, written the Commander of the Forces, Sir John Sherbrooke, at Quebec, asking if the Government would grant him land at Perth to any extent, proportioned to the clearance made, buildings erected and number of people settled, but had received an unfavorable reply. (45) In October he came from Queenston to York and interviewed the Administrator, Hon. Samuel Smith, and John Small, Secretary of the Executive Council, about a grant of land, and seems to have had some indefinite assurance that his wishes would be complied with. He lodged a formal petition asking how much land he could receive and left for the west, going through the Talbot Settlement in November and December (46), arriving back home at Queenston, January 5, 1818, as he states in a letter to his wife of that date.

In September, 1817, he had sent copies of the Perth Statement, (already mentioned) to his wife in England, accompanied by a letter "to the Editor of any British newspaper," with instructions that these should be published in the newspapers and a copy presented to Lord Bathurst. (47) They were published in a number of British newspapers in November, 1817. (47), (48).

His journeys through the country had convinced him of the value of the information which would be obtained from answers to the queries he had drawn up on shipboard. He accordingly in October drew up his celebrated address "To the Resident Landowners of Upper Canada." He had intended to publish this in the Niagara Spectator, but changed his mind because of what he considered an improper article in that paper. He then, October 19, went across the lake to York to have the address inserted in the official organ, the Upper Canada Gazette, there. (49). He consulted several of the most important people in York, and received the approval of his address from the Administrator, the Chief Justice William Dummer Powell, Dr. Grant Powell (his son), D'Arcy

(afterwards Mr. Justice) Boulton and his three sons, the Messrs. Jarvis, Col. Cameron, Col. White, Capt. FitzGibbon, with many others. (50) "The inflammatory nature of this paper and the dangerous mode of proceeding which it suggested, were not perceived by the President of the Province or by any of his Counsellors except one of them, who highly disapproved of Mr. Gourlay's paper, and of its being published in a journal, which gave it a sort of official authority." So says James Strachan, brother of the Reverend Dr. John Strachan, in a chapter in which Gourlay found "32 falsehoods, 38 untruths, besides misrepresentations throughout." (51) The astute counsellor was Dr. Strachan, whom Gourlay makes the mistake to characterise as "a monstrous little fool of a parson—ROGUE would have been nearer the truth." (52) Strachan was neither fool nor rogue, and Gourlay never wholly realised the tremendous extent and weight of his influence. Beyond any doubt Dr. Strachan looked upon the Address as of mischievous tendency, and calculated to stir up discontent with the existing régime which in his view was perfection itself; and there is no doubt that he at once exercised all his very great power to foil the efforts of Gourlay. Gourlay complains of his intolerance, and he was intolerant—quite as much so as Gourlay himself.

Read at the present day the Address does not convey any suggestion of sedition. It begins with stating the intention of the writer, a British farmer, to become a settler, and continues by taking it for granted that certain political restraints to improvement will be speedily removed, but adds that the address "waives all regard to political arrangements," and contemplates only correspondence concerning the natural resources of the country. No authentic account has ever been furnished to men of capital and consequently most settlers have been poor men driven from home by despair. What is most needed is capital. There are thousands of British farmers who would come to Canada if they knew the truth; England could spare 50,000 annually and must find vent; a liberal system of colonization there would render the exclusion of American citizens of small moment. Government should encourage emigration. The first thing to do was to draw up and publish a well-authenticated statistical account of Upper Canada, and for that purpose queries were submitted, 31 in all, and if each township would reply, the work would be far advanced. But correct information was all important, and a meeting should be held in each township to draw up replies. The queries ask the name, extent, first settlement of each township, the number of churches, preachers, medical practitioners, schools, stores, taverns, mills, the character of the soil, timber, minerals, whether brick or lime can be manufactured, the wages of tradesmen and laborers, cost of mowing, reaping, fencing, clearing, value of horses, cows, oxen, sheep, etc., seasons for sowing, reaping, etc., amount of grain sowed to the acre, time of sleighing, ploughing, etc., price of wild lands and quantity now for sale, state of public roads. Question 31 is perhaps that against which most objection was taken: "What in your opinion retards the improvement of your township in particular or the Province in general, and what would most contribute to the same?"

The Address and queries were published in the Upper Canada Gazette at York, October 30, 1817. Eight hundred copies of a circular containing them were despatched, one to the officers of each township in the Province lest they should not see the Gazette; and Gourlay was on his way home by steamboat well pleased with his work when he heard to his utter astonishment "that a member of the Executive Council had declared himself displeased with my sentiments and had called it presumption in me, a stranger, to come forward as I had done." (53) The Address was copied into the Niagara Spectator, and, Nov. 10, Gourlay wrote that paper to "guard the public against murmurs which may retard the promotion of the best interests of the Province." (53) He always asserted that he had not in view Parliamentary Reform or anything political; but in this letter he gives his opinion of the exclusion of American citizens from Upper Canada, a burning question at the time. He says: "The veto issued against the admission of such people I am clearly convinced was subversive of a Constitutional Act which no one branch of Government has a right to infringe." (54) This was not the way to mollify an angry and powerful councillor, nor were matters improved by a letter to the Niagara Spectator, January 8, 1818, mentioning Dr. Strachan as the unfriendly councillor, and rather suggesting that he was one of the "men who will run in the face of common sense and discretion to gratify their envy and their spleen." (55)

Two days after the publication of the Address in the Upper Canada Gazette, Gourlay when on the point of going with the Administrator, Col. Smith, to his country-house, was informed that his younger brother, Thomas, was on board the steamboat Frontenac just arrived in from Kingston. He had come with the intention of becoming a settler, but without notifying his brother, who did not expect him. The two went forward by the Frontenac to their friends at Queenston, and a week or so afterwards they went on horseback to view Gourlay's land in Dereham. (32) Thomas Gourlay also applied for land in January, 1818, by a petition by which it appears that he had been bound apprentice to a Writer to the Signet in Edinburgh, merely to qualify him for the liberal pursuits of a country life in Scotland, but had changed his mind and desired to become a settler in Upper Canada and carry on farming and general commerce. (56) Neither Robert nor Thomas Gourlay ever received a satisfactory answer to their petitions—as Robert charges and as it is not unlikely, owing to the influence of Dr. Strachan. Thomas "remained a year in Upper Canada and got neither land nor answer to his petition for no reason but being my brother, while all else had land on taking the oath and paying fees. Subsequently he went to Van Dieman's Land, obtained land and did well, till indifferent health made him retire to Scotland. He had no connection with me or anyone in politics; quiet in all respects." (57)

Many meetings were held in the townships pursuant to Gourlay's Address, and more than forty sets of answers were received, many of which appear in the Statistical Account. No small number of the magistrates and of the most substantial people in the Province expressed their approbation of Gourlay's scheme.

He made no effort to placate those opposed to him, but after publishing in the Niagara Spectator a copy of the Imperial Act of 1790, inviting citizens of the United States into His Majesty's North American territories, he published in part on February 5, and wholly on February 12 in the same paper, his celebrated second Address to the Resident Landowners of Upper Canada. This was a ringing appeal quite different from the first. After starting out by saying that in his first address "to lull the spirit of party" he forebore all allusions to political concerns," he goes on: "I have changed my mind, and most unwillingly must change my course of proceeding. This country I am now convinced cannot be saved from ruin by temporising measures nor by the efforts and reassuring of any individual; if it is to be saved, reason and fact must speedily be urged before the throne of the Sovereign by the united voice of a loyal and determined people; if it is to be saved, your Parliament now assembled must be held up to its duty by the strength and spirit of its constituents. A new leaf must be turned over in public conduct. . . . Your late Governor (Gore) . . . while yet he was laughing in his sleeve at the subservience of the last Parliament . . . found the present one willing to stifle the remembrance of subservieny . . . it should have been moving impeachment against himself . . . There ought to be an immediate Parliamentary enquiry into the state of this Province, and a commission to proceed to England with the result of such enquiry. It should be pressed by petition from every quarter." "Gentlemen, the British Act of Parliament for encouraging the settlement of the colonies was made over to you with your Constitution, and your Parliament alone in conjunction with the British Sovereign had a right to alter it. The swaggering declaration of a war minister founded on the dogmas of antiquated lawyers, has said that we cannot change our allegiance; but this great question . . . was long ago set at rest by British Acts of Parliament in the face of which, declarations and dogmas are but empty sounds."

He then urges that Americans should be admitted, proceeding: "In all past time Provinces have been the sport of arbitrary powers. . . . It is an evil by no means unconquerable, and it is worthy of a British colony to be the first to surmount it. This Province indeed can no longer be trifled with. . . . Let us not cease to act; send in your petitions for enquiry, press for a commission to go home with the result, and publish this with your Township Reports in England. This will break the spell which is sinking this Province to poverty and disgrace. . . . N.B.—As many of the inhabitants of Upper Canada may never have seen the Bill of Rights . . . it may not be improper to inform them that this secures to the subject the right of petitioning the Legislature at all times . . ." He subjoins a form of petition to the House of Commons of Upper Canada asking for an enquiry why the Province "is in a state of waste and decay."

Almost immediately thereafter, he writes the Administrator setting out in full the correspondence concerning his petition for information as to land and his efforts to obtain such by personal interviews with the Surveyor-General, etc. He adds: "Refusals would have done very well,

but evasion is always despicable." He with ill-timed jesting says: "I am still waiting for an honest answer to my humble petition. O fy! shame upon it and fy! Sure you have altogether lost yourselves on some horrid Stygian shade where the souls of you have been sucked out by the thirsty vampire, or does the Council labour under a night-mare? Has it devoured too much land and gone to sleep while the crude mass is yet undigested? . . . I cannot think . . . the speech (from the Throne) was written by anyone who feels or cares for Canada. . . I am ashamed of the style. I am ashamed of resorting to vermin for a companion, but nature has made nothing in vain; and the filthy things we abhor have been called into existence to give us suitable notions of the conduct of public affairs at little York—dull, dirty and disgusting." He had already spoken of "the fault-finding of one of your Councillors," and now adds: "Awake, my dear Sir! Awaken all your Councillors; tell my friend the fault-finding Honourable and Reverend Doctor that if he will do justice to his higher duties I will lecture for him in NATURAL PHILOSOPHY and *get the school house painted*. I was a favorite student in this very branch at St. Andrews University, and afterwards studied at Edinburgh under the profound Mr. Robinson. This is more than twenty years ago, but with a little brushing up and a due assortment of **pigs and whistles**, I could soon show off as a respectable mountebank." This, as he explains later, was intended as a criticism of Dr. Strachan delivering a course of public lectures on natural philosophy, to raise money to paint the district school. Gourlay proceeds: "Colonel Smith, let us be serious . . . do justice to your country and honor to yourself," and he shows how:—(1) a general taxation of wild lands. (2) "correct the serious mistake as to paying the claims of sufferers in war out of the forfeited estates," (3) "the improvement of the St. Lawrence navigation." In the letter were enclosed extracts from a letter to him from his wife such as a loving woman would write and a man with any sense of propriety would never think of submitting to any eye other than his own. He says: "The first extract would have wrung the hearts of the poor trifling wretches there, who have been sporting with their own duty and my serious concerns, if they had hearts within them." (58)

About the same time he sent a petition to the House of Commons at York, saying that he had found his property depreciated by "the suspension of law, a general maladministration of affairs and the violation of public faith," and urges a full enquiry, asking to be heard at the Bar of the House. (59)

To understand this Address and letter, it will be necessary to consider the state of affairs then in Upper Canada.

While Americans were invited by the Statute passed in 1790, 30 Geo. III., c. 27, to "come . . . with their families . . . to any of the Territories belonging to His Majesty in North America for the purpose of residing and settling there," each white person over 14 years of age immediately after his arrival to take the oath of allegiance, etc., the Home authorities after the war of 1812-14 thought it not wise to allow Americans—presumably republicans—to enter and take up their

residence in Upper Canada. Accordingly, January 10, 1815, instructions were issued by Downing Street to prohibit all settlement from the United States. Governor Gore in October, 1815, sent a circular to all who had power to administer the oath of allegiance, "the Chief Magistrate of the place where such person shall arrive" (30 Geo. III., c. 27, s. 3), directing a report of all immigrants residing in each district and such as should thereafter arrive; and forbidding the administration of the oath to such American immigrant or to the son of a U. E. Loyalist without special authority from the Governor. Before this circular, these Americans upon taking the oath of allegiance could hold property; thereafter not being allowed to take the oath they could not, the sale of land was checked and settlement was impeded. The Honourable William Dickson, a member of the Legislative Council, a commissioner for taking oaths, etc., was also the owner of a large quantity of land which he desired to dispose of. He disobeyed the instructions, claiming—and in this claim he was clearly right—that no executive officer could over-ride an Act of Parliament. The matter was warmly debated in Parliament; the House passed Resolutions as to the Statute of 1790 and an earlier Statute of 1773, whereupon, Feb. 7th, 1817, the Governor peremptorily prorogued Parliament, it having met only February 4. An address had been voted to the Governor asking what steps had been taken to allot lands to the volunteers and militia who had served during the recent war; and resolutions were to be submitted dealing with the settlement of the Province and the admission of Americans. Gore left the Province in midsummer of 1817, and was succeeded by Samuel Smith, the Senior Councillor, as Administrator, who called together the Parliament for February 5, 1818; and this House was in session at the time of the second Address.

In considering Gourlay's reference to Dr. Strachan, it must be borne in mind that he held the latter in the utmost contempt and made the mistake of undervaluing his antagonist. "About the year 1795 this now Honourable and Reverend personage strolled south from Aberdeen, where he had received a little college learning and was for a while perceptor to the children of a farmer in Angusshire. After this he got to be school master, first at Duninno and then in Kettle, parishes in Fifeshire, attending St. Andrews College at the same time, as an irregular student. The Rev. Dr. Hamilton, of Gladsmuir in East Lothian, my wife's uncle having a commission from a friend in Upper Canada to send out to him a person qualified for a family tutor, offered £50 a year to procure one, and Strachan agreed to go out. He went, and after teaching privately for some time became again a schoolmaster . . . got orders . . . as a minister of the Church of England, was appointed to the Rectory of York . . . and finally became in addition honorary member of the Executive Council . . . but our Dominie would not rest with the performance of his many duties of schoolmaster, parson and councillor. He was not contented with whipping children, but attacked an ex-President of the United States in a virulent newspaper article to which he set his name as "Rector of York"; and published a pamphlet abusing the late Lord Selkirk for his attempt to establish a colony in the Hudson's Bay territory." (60) More than once

Gourlay refers to Strachan having been sent to Canada by his (Gourlay's) wife's uncle, and seems almost to look upon him as thus a beneficiary of the bounty of Gourlay's family. Anything said of Dr. Strachan by him must be read with care, as he undoubtedly was much prejudiced against the Councillor.

The first part of the Address was shown to the Hon. William Dickson; it expressed his own views as to American immigration, and he was greatly pleased with it, going so far as to offer the author 500 acres of land in recognition of its value, adding: "if the people of York would now but arrest me (i. e. Gourlay) the business would be completed." (61)

Major Leonard, of Drummond Hill, Niagara Falls, ventured to criticize and dissent from some of the statements in the Address, and was answered in a vigorous letter by Gourlay. Leonard was compared to a goose who went on to cackle "cackling of which a grammatical goose would be ashamed," "nonsense and perversion," a "weak and shallow production." A letter signed "A Resident Landlord," published at the same time as Leonard's, received even more severe treatment. "Jealousy and envy and pride are the chief movers in this iniquitous production," "lying spirit," "cunning spirit," "insolent protégé"; but, manner apart, Gourlay more than holds his own and has quite the best of what little argument there is. (62)

He now sees that a paper war is inevitable, and, February, 1818, causes to be reprinted in book form all his writings which had appeared in the Niagara Spectator, with foot-notes; and afterwards all that was published pro and con, week after week, till there was a volume of 167 pages. (63)

When on the opening of Parliament, Clark and Dickson had gone to York, Gourlay proposed to follow them in a short time and stay there two or three weeks to see how matters went on in the Assembly. (64) His friend, Thomas Clark, wrote him from York, February 23, 1818, saying that he was still more displeased with his Address, etc., "as is almost every gentleman in York the more it is looked at or talked of. — What could have induced you to expose the President and others and particularly yourself in the manner you have done, I know not. Until this fatal error most folks here were inclined to befriend you. . . . now . . . it is my opinion every man of respectability will be shy — of you should you come here; and that your feelings may not be still further hurt, I should recommend your remaining on the Niagara side of the Lake, or should you wish to go to Kingston (where there are many Reports waiting for you) that you should go by way of Sacket's Harbour." Gourlay proceeded to publish this letter—seemingly well-meant—in the Spectator, with his reply beginning, "Go by way of Sacket's Harbour!" "the Devil!" "'tis the very error of the moon!" "I'll blow Little York in the air and 'every man of respectability' with it before I go by way of Sacket's Harbour!" He rallies Clark for abandoning his duty, "whipt from your post of honor by the taws of an arrogant and paltry schoolmaster," who "by a concurrence of circumstances

certainly not from superior ability" had "got on horseback and you know how some people ride when so mounted." He had advertised "to teach philosophy to get the school house painted; what would be thought in London if an Executive Councillor was so to demean himself"; "let him get into a penitentiary; let him stick to the altar . . . in the meantime how are we to make such a man feel his misconduct but by . . . exposing him to the world, by assailing his unbounded vanity?" Then, with his faculty of getting into trouble and making enemies, he gives messages for Dickson, William Claus, Chief Justice Powell (whom he attacked as a pluralist), the Administrator (whom he attacked over the case of Angelique Pilotte), Isaac Swayzie (a member for the District). If Gourlay had been looking for trouble he could not have framed a letter with more effect. (65)

This letter was published in the *Niagara Spectator* of March 12th, 1818. The next issue contained a letter from a jurymen who sat in the case of Angelique Pilotte. She was a young girl, the daughter of a squaw, and born near Michilimackinac: taken to France, she formed an illicit connection with a British officer and became pregnant; sent back to her home, she sailed from Drummond's Island for Fort Erie. and during the voyage, which lasted three weeks, she was delivered of a child still-born. She concealed the birth, and on her arrival on land left the infant exposed in an open field. She was arrested and put on trial for the crime, and convicted. A petition was sent to the Prince Regent, backed up by Magistrates, Officers, etc. In Gourlay's letter he in effect charged Colonel Smith, the Administrator, with delaying the Royal clemency.

The jurymen's letter had said that the jury could, according to their oath, say no other than Guilty. Gourlay's letter in reply is most interesting as showing what was undoubtedly his view of the duty of jurors:—"he might appeal to the true intention and spirit of the law," "the jury might have saved the wretch from condemnation." "The extraordinary nature of the case might have justified them in refusing to give a verdict." (66) This is prophetic of contentions to be made on an occasion of much more importance to himself.

A petition of the Assembly in favour of Angelique Pilotte was transmitted in March to the Prince Regent, and was most promptly and graciously acceded to. (67)

In March Gourlay got into a controversy with Dr. John Howison, "The Traveller," Howison beginning it by a letter to the *Niagara Spectator*. Howison says: "The principal defect and most offensive thing in Mr. Gourlay's address was the tone of superiority which characterized it"; but he speaks highly of his honesty and the importance of his object; suggests he has too much enthusiasm, but thinks "the people of Canada . . . seem more offended with his presumption than interested in ascertaining the correctness of the charge, which he lays against their Government"; "he has been too precipitate," "his style too bold and the sentiments rather exceptionable," but withal "Mr. Gour-

lay's publications will be of service; they will excite a spirit of enquiry." . . .

Gourlay at once replies: "The Traveller's production is a knotless thread." There cannot be too much enthusiasm for a reformer; he was not precipitate; Dr. Strachan comes in for another lashing, this time for intolerance to other churches. The first Address is defended and the second, "if the higher classes are against me, I shall recruit from among my brother farmers," and the Traveller is invited to walk out again before the public. The Traveller promptly does so, but in a rather rapid production; and Gourlay again replies; of course attacks Dr. Strachan, "the arrogant priest," attests the value of his own labours, etc. He then refers to a report of the annual Town Meeting of the inhabitants of the Township of Augusta in February, at which resolutions were passed that Gourlay's first Address contained principles inimical to the peace and quiet of the Province, and very injurious consequences might result from such information as his queries called for, being "placed at the disposal of a man of Mr. Gourlay's political principles." Gourlay attacks "John Bethune, Clerk," who was one of those signing the report, as a renegade Presbyterian, "a fool, a busy-body, and a slanderer," "the pupil and brother-priest of Dr. Strachan." "The Traveller's" reply is of no importance, nor is Gourlay's answer, except that he says "after all I have said of Dr. Strachan, I now acknowledge it possible that perhaps he was sincere and meant to do good"—the only passage I think in all Gourlay's voluminous writings where he admits even that much of his "enemy." (68)

At this time Gourlay intended to go to York for a few weeks and then returning to Queenston start for England; but he received unfavourable news regarding his affairs in England, and thought of living in Canada as a newspaper editor. He had "gone on beyond my expectations here and . . . kindled interests that Canada never knew before." All Canada had assisted him "but the Government party at York, who are jealous of everything and everybody, from a system of speculation which has been carried on among them in giving lands to their friends." So he writes his wife, March 5th, 1818, (69) and March 24th. "Every week for the last month or more I have filled a page of the Niagara Spectator and beat down all before me . . . seven-eighths of the people of the Province will back me." (70)

He was conscious that from York eastward his efforts were not generally appreciated; while to the west he had received answers to his queries from almost all of the Townships, east of York not one in ten had responded, and only three had been sent to the Kingston Post Office. He adds in his letter to the Spectator, March 27, "This is fortunate for me. Had every township been reported, the publication would have been too cumbersome for circulation." (71) The information as to the reports which had been sent to the Kingston Post Office he had received earlier in the month from the Postmaster at Kingston, John Macaulay, whom he informed of his intention (March 18) still to come to Kingston. (He had in the preceding December written the Kingston Gazette that

he would pass that way on his return to England, and directed that all communications should be addressed to him at the Kingston Post Office. (72)

The failure to obtain answers east of York he ascribes to the "unrighteous zeal" of Dr. Strachan and "his pupil and Reverend brother—Bethune." (72)

The Parliament sitting at York were informed by the President that an extended immigration had been planned, and he recommended for consideration how far it was expedient to assist the immigrant by providing means to defray the expense of a grant of land. The Houses got into a jangle over a bill for placing a tariff on goods from the United States and other matters. The President threatened prorogation; this the Assembly resented and retaliated by expressing its conviction that evil must result from legislative and executive functions being vested in the same person "as is unfortunately the case in this Province where His Majesty's Executive Council is almost wholly composed of the Legislative body (Council) and consisting only of the Deputy-Superintendent General of the Indian Department, the Receiver General and the Inspector General, the Chief Justice, the Speaker of the Legislative Council and the Honourable and Reverend Chaplain of that House." Here both Chief Justice Powell and the Rev. Dr. Strachan were struck at. The Parliament was prorogued April 1, the President "finding no probability of any concert between the Houses."

At once Gourlay issued a third Address to the Resident Land-Owners of Upper Canada, dated April 2; it opened thus: "Gentlemen: Your Parliament is broken up—a second time broken up from employment of the most vital import to the House and well-being of the Province! Good God! what is to be the end of this?" Then he proceeds: "The constitution of this Province is in danger. . . . For three years the laws have been thwarted and set aside by Executive power; for three sessions have your Legislators sat in Assembly and given sanction to the monstrous—the hideous abuse." He attacks the whole system of Government in Upper Canada—not, as he is careful to explain, the individual legislators—and urges a petition to the Prince Regent. He proposes that a meeting be forthwith held in every organized township, and names a day and place for the Township of Niagara. The people of each township should choose a representative and clerk, and the representatives should meet in each district on an appointed day and draw up a petition to the Prince Regent which could then be signed by every well-wisher. The district meetings should hold conference by Representatives in a Provincial Convention who should arrange the whole business, send Commissioners to England with the petition, and hold correspondence with these as well as the Home Government. Two or three Commissioners would suffice, and a dollar from each subscriber would defray expenses. "Every eye should be resolutely bent on the one thing needful—a radical change of system in the Government of Upper Canada." "Every man who has a spark of sincerity or patriotism in his soul has now sufficient cause to bestir himself." "I will accept

of no appointment, but persons acting on it shall have my utmost assistance, and I shall make clear to them every course to be pursued . . . though the rights of Parliament may be trifled with, those of the people of Upper Canada are not so easily to be set at defiance."

If there had been before any doubt that Gourlay was "in politics", there could be none now.

A number of township meetings were held—Niagara, Grantham, Louth, and others, attended by the most substantial men in the country, many of them Magistrates; but without delay a claim was made that → such petitions as were intended were illegal. Thomas Clark (who had subscribed a dollar) distributed a handbill at Niagara, dated April 18, stating that beyond publishing a statistical account, Gourlay had not his approbation or countenance; he desired "to prevent error in and rescue from distress the heedless proselytes of Mr. Gourlay's one thing needful, viz., a radical change of system in the Government of Upper Canada"; and quoting from a text book the law against seditious meetings, added "the Act of Parliament was passed in Ireland in the year 1793 to prevent any such meetings or conventions, and a few ignorant individuals who in the same year had tried to assemble under that title in Scotland, were quickly dispersed and their leaders convicted of seditious practices for which they were sentenced to transportation. I shall conclude with recommending to all to weigh well how they attend to visionary enthusiasts."

A meeting was held at Niagara, April 13, at which Gourlay's Address was approved, and Robert Hamilton elected Representative. Hamilton immediately after Clark's handbill, circulated another in the name of the committee appointed at the Niagara meeting to forward the views of the meeting, recommending other townships "where any doubt may exist in consequence of Mr. Clark's handbill to postpone the election of their Representatives," the Committee pledging themselves to show in a few days that they were not only right in what they had done, "but that the Hon. Thomas Clark is grossly mistaken." (73)

Subsequently, April 23, Hamilton in a note inserted in the Spectator, advised the Township meetings to proceed; but in the meantime, April 21, Gourlay had issued an Address "To the worthy Inhabitants of the District of Niagara" on Clark's "unnatural, insidious, infamous placard," "a bugbear to frighten the people of Upper Canada out of the exercise of their most sacred right"; he demands that Clark shall bring him to trial for sedition if he thinks him guilty of it; tells of the strong necessity for strong measures in Ireland in 1793 when rebellion was nearly breaking out, and says he himself visited Ireland in the midst of that rebellion. As to the Scottish convictions, he was at the trial and they were for "secret meetings . . . administering oaths of secrecy and having warlike arms . . . for carrying their demands violently into execution." (74) He adds he is "no dependant on Mr. Clark . . . this very self-important personage," and had never been ruled by his advice or authority. Clark had the preceding day disgraced himself at

the Stamford meeting by declaiming that Gourlay was a man of no substance and that the dollar he had paid was meant for his private aid as a poor man, that he had lent Gourlay money in England which he had squandered, and that he had not a foot in land in Upper Canada. Gourlay then sets out the facts of his law suit in England (not quite correctly) and a voluntary loan of £500 from Clark and some trifling advances thereafter; that he owned 866 acres of land in Dereham, "which belonged to my wife before her marriage with me, but which she has since made over to me." He adds that the obnoxious placard was the production of the two Councillors, Thomas Clark and William Dickson; he had seen the copy before printing and had warned them that if it was published he would feel himself bound by no delicacy of exposure, and that Dickson said in that case he would never speak to him more.

Then he tells of Dickson's offer of 500 acres to him in recognition of his second Address, of Clark asking him if the abuses "would not justify rebellion?" and Dickson openly saying at the Mess in Niagara, before British officers, "that if things were not ordered better, he would rather live under the American than British Government." He then explains what he meant by "a radical change of system in the Government of Upper Canada," called for in his Address, namely, a repeal or amendment of the Act of Parliament of 1791 and a fresh Act "which would free us from such pests as legislative councillors." He strikes another blow at Dr. Strachan; says Clark has the monopoly of mill seats on the rapids of Niagara, and Dickson had 6,000 acres of land given him by the Indians under the influence of Colonel Claus. He winds up by calling upon Canadians to arouse themselves and save the Province from ruin "for constitutional right is being assailed." (75)

This was printed in the Spectator of April 23, and it may readily be conceived that it did not tend to make peace; and Gourlay was quite justified in writing as he did to his wife, June 7: "A most strange breaking out between me and your cousins Clark and William Dickson has occurred." In the same letter he asked her to "write a letter immediately to your cousin Robert Hamilton at Queenston, signifying your having made over your third of the land jointly owned by your mother and brother to me." (76)

The Address was adopted and circulated by the Niagara Committee; May 4th, 1818, the Representatives and Clerks elected at the Township meetings of the Niagara District met at St. Catharines. John Clark, J.P., of Louth, was called to the chair, and William J. Kerr, of the same Township, elected secretary. The address of April 2 was approved, a draft petition prepared, and July 6 was to be advertised for the meeting at York of the Provincial Convention and the appointment of Commissioners to go to England.

The Petition set out the tried loyalty of Upper Canadians, the neglect of Canada in British commercial treaties, and of the claims of sufferers by the war to be recompensed; the right of Militia to be rewarded with land was urged; corruption, patronage and favouritism in the disposal of wild lands were complained of, and a Royal Commis-

sion to make enquiry into all the sources of evil was prayed. (77) Not only the American papers but many of the English papers had articles upon this movement; the American papers rather freely praising it; the English papers being as usual divided in opinion, but mainly adverse.

The petitioning Representatives entrusted Gourlay with the duty of looking after the Midland, Johnstown, Eastern and Ottawa Districts, i.e., all Upper Canada below the Trent. He went east by steamboat, arriving at Kingston May 18, and found the people there warm in the cause, the Kingston Gazette having printed "all the writings which have nursed it up," thereby creating an increased demand for the paper. May 20, he proceeded to Ernest-Town and there was informed by a young lawyer, Daniel Hagerman by name, that he had acted as Clerk of a Town meeting of Adolphustown at which answers were given to the queries, that he had posted the answers in the Kingston Post Office addressed to Gourlay, but had withdrawn the letter afterwards as he had taken offence at some of Gourlay's writings. Nearly two months before, Gourlay had private information that the Kingston Post Master, John Macaulay, had been taking unwarrantable liberties with his mail, but "as I am not so hasty as some people I quietly waited for information on the spot." He told Hagerman that he would sue both him and the Post Master, whereupon the lawyer "opened the sluices of tinker eloquence."

He then went on to Prescott, May 22, calling by the way on Col. Stone, of Gananoque, "a worthy gentleman who had also withheld a statistical Report from me under the evil influences of the times and the Doctor." Then Brockville, "outwardly a delightful place, and when it contains as much honesty as pettyfogging law will be truly enviable."

Remembering the previous meeting in Augusta, he called a meeting there for May 27. A large gathering resulted, but some of those present were not residents who alone had been invited. Mr. Jonas Jones, afterwards Justice of the King's Bench, harangued against the Address to the Regent, and Gourlay and many others left the meeting. "The Judge, the Priest and the Scribe" who had signed the former report, were friends of Mr. Jones, and it is most evident that Gourlay's meeting was a dismal failure. May 28, he reached Johnstown, and next day Lancaster; May 30 and 31 through Glengarry, and June 1 reached the District of Ottawa, where he received a most hearty welcome. June 3 he retraced his steps into the upper part of Glengarry, and attended two meetings on June 4 at which he learned two things: first, that some ignorant individuals had been prejudiced against the cause, and, second, in Williamstown open war had been declared against it by leading characters. June 5, approaching Cornwall, he found that his pamphlets and papers had been burned and threats made to burn him in effigy; naturally "my stay in the village was short." On June 4 his address had been committed to the flames at a meeting of the inhabitants of Stormont, and an address against him read at the request of the Colonel and Officers of the Stormont Militia. This had spoken of the "canting

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professions" of Mr. Gourlay, and had assured him that the District was not "to be affected by the deceitful declamation of interested or discontented individuals." "But," says Gourlay, "infamous as it is, it gives but a faint idea of the filthy sentiments of its promulgators or of their worse than filthy acts. The profanity of Crysler, the member of the Assembly, with the gross and blackguard conduct and designs of several of the friends and pupils of Dr. Strachan can only be believed when proved" in Court.

From May 29 an enemy had followed him in a one-horse wagon pulling down his advertisements before the paste was dry. He reached Brockville again, June 9, and there, as in Augusta and Cornwall, "personal pique, ignorance, contumacy and revenge . . . stirred up a host against" him; June 11, he again reached Kingston where a most important episode in his life took place.

Sitting at dinner with some friends at their wine, he was called out and arrested on a warrant signed by T. Markland, J.P. He found that it had been issued at the instance of the Attorney-General through the agency of Mr. Christopher Hagerman, and on the oath of Mr. Miles, editor of the Kingston Gazette. The warrant was for criminal libel. He gave recognizances in £1,000 to appear at the next assizes at Kingston. He finds some satisfaction in the fact that Mr. Hagerman is brother of the "petulant fellow . . . at Ernest Town, and of another . . . many years confined in the State's prison for forgery, now reported to be hanged"; but the occurrence is nevertheless most serious, it deranges all his plans and prevents his return to England. He rather thinks that William Dickson is at the bottom of the arrest. When Dickson returned from Parliament and ceased to be Gourlay's friend, Gourlay heard that he was anxious to have him arrested, he asked Colonel Claus to arrest him for the Address of April 2nd, but Claus told him he might as well do it himself. Then Dickson crossed over to York in the same boat with Gourlay, and may well have prevailed upon the Attorney-General "who was the apprentice of his apprentice" to take proceedings. Elizabeth-town is reached by the 20th, Kitley the 23rd, as also Bastard, Yonge Township 24th, and Augusta June 25th. There he addressed a meeting for three hours, and was followed by Jonas Jones, who seems again to have vanquished Gourlay.

At Johnstown visited next and on the same day, he was violently assaulted by Duncan Fraser, J.P., but protected by bystanders; thereupon, he (Fraser) went before another magistrate, John McDonell, and laid an information against Gourlay "as a seditious person." McDonell issued a warrant accordingly, clearly an absurd and illegal warrant as Gourlay characterises it. Gourlay was arrested and placed in Brockville gaol; Fraser demanded £3,000 bail, but McDonell accepted £500, and the prisoner was set free. Then he laid an information against Fraser for the assault; Fraser pleaded guilty to the assault at the Quarter Sessions and was fined 40 shillings!! But several of those who had protected Gourlay were also indicted, amongst them a young man of the name of Grant. Grant had tried to keep the peace, but being struck

by Fraser, retaliated; for this he was fined £5 and imprisoned for one month by the magistrates at the Quarter Sessions!!!

June 26th Gourlay was at Elizabethtown. A meeting held there, June 6th, "had been disturbed by the clamour of Brockville lawyers and of a magistrate who stripped, or was about to strip, to settle matters by the ancient process of trial by battle," but that day Colonel Sherwood, a lawyer of Brockville, made a calm and argumentative speech and could not be persuaded by Gourlay as to the law; accordingly each party got up a petition, but Elizabethtown chose a Representative—so that Gourlay had a real victory. (78)

Gourlay arrived at Kingston, June 27th, and at once got into controversy with Mr. Macaulay, the Postmaster, for delivering up to Daniel Hagerman the letter posted to Gourlay. Macaulay defended himself in the Kingston Gazette, contending that a writer may withdraw a letter which he had posted, and at the same time attacking Gourlay's "Convention." Hagerman wrote in the same issue a somewhat discursive defence of his conduct and controverted Gourlay's law. "In enquiring whether to withdraw the Report was admissible by the Law, you say that you 'know and assert that it was not.' Now in reply to this I know and assert it was" and "you must have had a Dolt's head." As an anonymous correspondent replied to Hagerman's "false, foolish and impertinent letter," Gourlay let the matter drop, and we need pay no further attention to the subject except to say that Gourlay was undoubtedly right in his law for once. (79)

He published a somewhat full report of his eastern trip so far in the Kingston Gazette; this contained the statement as to the Hagermans above copied. Some "evesdropper . . . overlooked the proof-sheet and ran to apprise them of what was coming forth." Both brothers begged the printer not to publish what was said about their brother saying that they had a mother and sisters whose feelings would be injured. Gourlay, appealed to, was inexorable unless Daniel Hagerman would insert a written apology in the Kingston Gazette for what he had written about Gourlay. He refused; imprecations and threats had no effect on Gourlay, and the matter appeared in the Gazette. He excuses the statement as to the brother of the Hagermans being a felon and hanged by what would be an almost grotesque excuse were it not that it constantly appears when a libel is complained of. "If the man reported to be hanged was still alive, he had reason to thank me for openly declaring what was said of him that he might at once put an end to a story so discreditable . . . by publishing the truth or making his appearance." After the paper came out he was warned that the elder Hagerman would attack him, and Hagerman did attack him without delay. For some time Gourlay acted only on the defensive, but after being struck several times with a large loaded whip by a bystander, he took active and offensive measures. He was confident that "bottom would prevail over fury" when a magistrate who had hitherto quietly stood aloof, took him by the arm and required him to keep the peace, and the wretched scene came to an end. The attacked

party caused an arrest to be made, but it would seem that the matter was allowed to drop. (80) Gourlay long after found out that many stories had been circulated regarding his rencontre with Hagerman, some saying that Gourlay had scandalized Hagerman's sisters; "others who disliked him made jokes of my licking him and causing the ugly nose. This," he adds, "I repudiated. . . . I never injured his nose, though should his head be manipulated some bumps might be found likely to mislead phrenologists." (81)

This fracas took place toward the end of June, and July 2nd saw Gourlay on his way to York on board the steamboat "Frontenac" (82) to attend the meeting in that city which had been arranged for the Representatives chosen at the District Meetings.

The "Meeting of the Upper Canadian Convention of the Friends of Enquiry" began at York, July 6th, 1818, and continued to July 10th. Representatives appeared from the Districts of Niagara, Gore and London, the Western and Midland Districts, the District of Newcastle and Johnstown District. The Ottawa District was not represented, but Gourlay had been warned when on his visit to that District in May not to expect it on account of the extreme distance from York (83) nor was the Home District; that was the stronghold of those favourable to the existing state of affairs.

The Representatives, fourteen in all, were men of high standing, a former Speaker of the Assembly, Mr. Richard Beasley, J.P. of Gore, who was chosen Chairman, among them; William J. Kerr, J.P., of Louth was appointed Secretary. Gourlay was admitted to assist in the deliberations—to speak but not to vote. Upon the opening day he made a strong address in which he pointed out that "men accustomed to draw profit from corruption or enjoyment from the exercise of arbitrary power would oppose measures tending to refresh the body politic and restrain the licentiousness of ill-regulated authority"; but "many people who had been at first staggered under ignorance of the truth and the novelty of proposed measures were fast adopting more liberal sentiments." He therefore proposed a change of plan and instead of sending a commission at once to the Prince Regent, to send a deputation to wait on the Lieutenant-Governor, Sir Peregrine Maitland (then expected from England) and to present two petitions; one to the Prince Regent which the Lieutenant-Governor would send home at once, and the other to the Governor himself praying that he would immediately dissolve Parliament, meet a new Parliament, recommend them to proceed to an enquiry into the state of the Province and send a commission home with the result for the consideration of the Imperial Parliament. He made the curious error of mistaking the new Governor-in-Chief, the Duke of Richmond, for his predecessor and uncle, the well-known advocate of Parliamentary reform, universal suffrage, etc. (who had died twelve years before), and thought his appointment as Governor-in-Chief an auspicious event. He built much upon the supposed reform sentiments of the new Governor-in-Chief and upon his influence with his son-in-law, Sir Peregrine Maitland, the coming Lieutenant-Governor.

Daniel Washburn submitted certain different proposals, but those of Gourlay were, on the third day, adopted. A committee of five, one of whom was Gourlay, was appointed to draw up an address to Maitland; they did so and the address was with some dissent adopted. It asked that the new Governor should give the people his confidence, it set out the services of Upper Canadians during the recent war waged against Canada by "an insidious, a daring and revengeful enemy," drew his attention to the "Principles and Proceedings of the Inhabitants of the District of Niagara" (84) (a copy of which would be handed to him with the address), stated that they had decided to send a commission to England asking for an enquiry, but that they delayed hoping that the enquiry might be made by the local Parliament; asked His Excellency to dissolve the existing Parliament and call another for "we must with shame acknowledge to Your Excellency that the inhabitants of Upper Canada have hitherto paid too little regard to the characters of those whom they have chosen to represent them in Parliament, and most unworthy persons have sat in the Assembly"; cited instances of trifling and antagonism to the Governor, the prorogation of Parliament, and that at the next session "an offer of recompense for sufferers in war unhappily introduced into the Speech from the Throne and only tending to insult the feelings of a large body of people was replied to in most disgusting terms of acquiescence by the representatives of these very people." The Legislative Council had assumed rights which had been long denied even to British Peers, and should a new Parliament be called, notoriously bad characters would no longer be chosen to represent the people and a new and better era would commence.

A Lower Branch Convention for Newcastle, Midland and Johnstown Districts was arranged for; also an Upper Branch Convention for Niagara, Gore, London, Western and Home Districts. The Address to the Prince Regent suggested by the Niagara District was considered satisfactory on the new plan, and the meeting adjourned till the first Monday in February, 1819. The two Branch Conventions sat August 1st and July 20th respectively, at Kingston and Newton's Inn, Ancaster. The permanent committee of the Upper Branch on the addresses, met in St. Catharines, August 1st, and directed the address to be engrossed, signed and transmitted to England for presentation to the Prince Regent, Lord Erskine to be asked to present it. Mr. Beasley accordingly on that day wrote to Erskine with a copy of the "Principles and Proceedings," and asking him to present the Petition; and Gourlay was charged with forwarding Petition and Letter. (85)

His wife writes him in July that "the York junto have already poisoned the minds of their employers as to your proceedings in Canada. Both the Courier and the Sun have got paragraphs with respect to the discontent in Upper Canada occasioned by the adoption of the principles and following the advice of a Mr. Gourlay. If you do not hasten home with all speed they will have you transformed into a rebel." (86) But he could not hasten home, he was bound over to appear to stand his trial

for seditious libel, and he had no desire to shun the test. Nothing was further from his mind than the thought of sedition or rebellion, and no more loyal Briton ever trod the soil of Upper Canada.

On July 28th we find him again in Niagara writing the Spectator about his controversy with the Kingston Postmaster, saying that he had found in the east "that not only Strachan, the School Master, had been from York to Cornwall endeavouring to blast public confidence in me, not only that his pupil Bethune was flying in the face of common sense to breed distrust of my principles, but that this other pupil of the Post Office was giving away my property," and ends by hoping that the transaction will not escape the notice of the Postmaster General. (87)

## CHAPTER III.

### **Trials for Seditious Libel.**

The time for his trial was approaching, and he went to Kingston. While he was waiting for the assizes, Sir Peregrine Maitland passed through Kingston on his way to York, and Gourlay, August 10th, wrote him a note of excuse for not paying his respects personally because of being under a criminal charge, but offering if at any future time His Excellency should desire to have an interview with him, he would be happy to have that honour, "it is little my disposition to be intruding." About the same time he explained a reference he had made to the Methodists which had been taken in ill part; he wrote to the Kingston Spectator to repudiate the interpretation which had been placed upon his words. (88)

Four days afterwards the trial came on before Mr. Justice Campbell (called "Lord" Campbell by some of the American papers), Henry John Boulton being the Crown Counsel, (89) while Gourlay conducted his own defence. The charge was that part of the Niagara Petition to the Prince Regent was libellous, a "seditious libel." The part complained of set out that the lands of the Crown were of immense extent, but scattered, the disposal of it left to Ministers at Home ignorant of existing circumstances, and to a Council resident in the Province false to their trust; that scandalous abuse had occurred, and a system of favouritism and patronage still existed; corruption exceeding any other in the Empire prevailed; all in situations of public trust sink beneath the dignity of men and become vitiated and weak; the descendants of the Loyalists find no favour; Upper Canada now pines in comparative decay; dread of arbitrary power wars against the exercise of reason and manly sentiments; laws have been set aside and legislators have come into derision. (90)

This was not much, if any stronger, than an ordinary election address at no remote day, and anyone would now laugh at the idea of its being made the subject of an indictment; but it was at that time no laughing matter in any part of the King's Dominions, and many reformers had in the Old Land suffered a long term of imprisonment and living death for language much milder and more restrained.

Gourlay admitted publication and went into his defence. He called witnesses to show that the Petition containing the alleged libel had been examined, approved and published by a committee of representatives of the Niagara District who had attached their names to it. He also called evidence to character, one of them being James Wilkie (brother of the artist), who had known him from his earliest years and had served in Fife under him as Commandant of Volunteers. The defendant made an address in part prepared beforehand; this was in the same year published in pamphlet form. (91) The address to the jury was

much admired at the time, but read at the present it gives no evidence of any great ability. He says himself: "I pleaded my own case tolerably though having been in a feverish and bilious state for a week before, occasioned perhaps by anxiety, I had not prepared as well as I could have wished." It may be observed that goaded by Boulton's attack on him he said he could impeach Boulton's father of neglect of duty—no less than the non-prosecution of a murderer when he was Attorney-General. He begins by complaining that a copy of the indictment had been denied him as was the barbarous custom of the day; and that Boulton had compared the Convention to Willcocks. He contends that the "recent popular movement was due to circumstances justifying it"; gives a fair definition of libel, and quotes from Saunders' Reports the case of *Lake vs. King*, which showed that a Petition to Parliament is absolutely privileged however false and defamatory its contents, and then he speaks of other cases; claims that the Petition "is as true as words of Holy Writ," administers a dignified and respectful but well-merited rebuke to the Judge for saying that he "had great abilities if properly applied," saying that he knew better the honesty and propriety of his objects than the Judge knew his abilities; goes out of his way to attack the Attorney-General (John Beverley Robinson) and Dr. Strachan: "The Attorney-General of the Province is but a stripling, the foster child of a certain clerico-political schoolmaster"; "Rules of Courts of Law . . . are often the capricious and selfish decrees of men greedy of power," gives a correct statement of the rights of juries in cases of libel, and finishes with an appeal for an acquittal.

It is likely that he had received professional assistance in part of this address; Saunders is not a work a layman would read, and Gourlay had warm legal friends in Kingston; probably Washburn and Barnabas Bidwell supplied the citations and quotations from previously decided cases.

The Crown Counsel excited Gourlay's anger by letting "out his spleen against the Convention of Friends to Enquiry, by saying they were as contemptible at York as they were at home," (92) and some American papers thought his speech illiberal and vindictive (93), as might indeed be inferred from the state of official sentiment at the time. No complaint, except what has been already mentioned, was made of the conduct of Mr. Justice Campbell—the pamphlet published by the sympathizers of Gourlay said that he "exercised much patience and candour during the arguments, and delivered a learned and able charge to the jury," and at the dinner given to Gourlay the next week, one of the toasts was "The integrity of Judges and the Independence of Juries equally entitled to respect." In half an hour the jury returned with a verdict of "Not Guilty," which was received with "instantaneous and general burst of applause" (94); and of a surety a more righteous verdict was never given by any jury.

✓ The acquittal took place on Saturday. On the following Monday, August 17th, a number of gentlemen gave him a complimentary dinner at Moore's Coffee House; some dozen or more loyal and patriotic toasts

were drunk, and sentiments honoured; and the occasion was one of joyous and "social hilarity." (94)

The Brockville Assizes coming on, he attended there to "do honour to his bail," and on the first day, Tuesday, August 25th, demanded his discharge, protesting against the illegal warrant. This was of course refused, and he was told he must abide his trial, the bail being "to answer to any charge that may there be brought against you." The second day, a presentment (not an indictment) was brought in against him by the Grand Jury upon which sat Messrs. Fraser and McDonell the complainant and committing magistrate; on the fourth day, as no indictment had been found, he again demanded his discharge, but that day an indictment for seditious libel was returned and Saturday he was arraigned. On the following Monday, August 31st, the trial began; Messrs. Henry John Boulton and Jonas Jones, M.P., of Brockville, for the Crown and Gourlay defending himself. Gourlay again admitted publication and was called on for his defence. It was along the same lines as at Kingston, but the evidence of some in the district as to Gourlay's conduct and the effect of reading the pamphlet was rightly excluded; the jury found a verdict of "Not Guilty." This verdict was equally popular with that at Kingston and of course was equally righteous.

It should be noted that this indictment was upon parts of Gourlay's Address of April 2nd, 1818, and was even less well founded than that at Kingston.

The next day, September 1, he left Brockville by Canadian steamer; at Cornwall, hearing that the Duke of Richmond would pass upward that day or the next, he sent a card to him with copies of his four pamphlets, "Principles and Proceedings, Etc.," "Narrative," "Transactions of the Convention of Upper Canada Friends to Enquiry," and "Speech to the Jury at Kingston." Arriving at Montreal, Sept. 3, he went thence, Sept. 7th, by way of St. Johns, Whitehall and Albany to New York, where he arrived Sept. 11. There he had a power of attorney drawn up to settle his affairs in England and Scotland, and sent that week the petition of the Convention to England, the latter for delivery to Lord Erskine. (95) He also wrote to Sir Peregrine Maitland sending him pamphlets, and adding: "Should the general impression made on your mind generate suspicion that I am unworthy of confidence, the mere acknowledgement of the receipt of this letter by one addressed to me at Queenston will be sufficient. If otherwise, and you should incline to have a conference on the subject, I shall willingly proceed to York and wait upon your Excellency." (96) He left New York, September 20th, and made a tour through New England, visiting Stamford, New Haven, Hartford, Boston, Salem, Cambridge, Worcester, Brookfield, Northampton, Pittsfield, Lebanon Springs (then the Shaker Settlement), and to Pittsfield again to attend the meeting of the Berkshire Agricultural Society. Being recognized, he was treated as one who was opposed to British connection, but this he repudiated as he had a similar compliment in New York a few days before. (97) Proceeding by way

of Albany, Schenectady, Watervliet (where he attended the meeting of Shaking Quakers), Utica, Rome, Sackett's Harbour, he went across Lake Ontario to Kingston, which he reached October 17. (97)

It was high time for him to return; Sir Peregrine Maitland had called together the Parliament for October 12; on that day in the Address from the Throne he had said: "In the course of your investigation you will, I doubt not, feel a just indignation at the attempts which have been made to excite discontent and to organize sedition; should it appear to you that a Convention of Delegates cannot exist without danger to the Constitution, in framing a law of prevention your dispassionate wisdom will be careful that it shall not unwarily trespass on the sacred right of the subject to seek a redress of his grievance by petition." In other words, "Gourlay and his friends have not been frightened by the statement of Clark and others that their proceedings are illegal, pass a law in the sacred name of the Constitution to make them illegal."

On the 14th, the Legislative Council presented an address to His Excellency, saying: "We shall at all times feel a just indignation at every attempt which may excite discontent or organize sedition"; and added a promise to protect the sacred right of petition. The Assembly on the 19th went much further in their address, saying: "We feel a just indignation at the systematic attempts which have been made to excite discontent and organize sedition in this happy colony. . . . and deeply lament that the insidious designs of one factious individual should have succeeded in drawing in to the support of his vile machinations so many honest men and loyal subjects to His Majesty"; but they, too, would be careful of the sacred right of petition. His Excellency was naturally gratified and doubted not their wisdom to enact salutary laws. (98)

Gourlay was still in Kingston when the Governor's speech and the reply of the Houses were made; he at once drafted a petition to the Houses of Parliament and wrote October 20 his next address, an Address to the Upper Canadian Friends to Enquiry. He begins: "Gentlemen: Behold the Lieutenant-Governor's speech; behold the reply of your House of Assembly! We are all libelled as seditious and our acts have excited **indignation**." He asks them to be calm, says that he is on his way to York in the face of every danger, and while he is not a street-boxer or a duellist, if the great principle of constitutional right require a martyr, not only his liberty but his life will be freely offered—he will address them again and thrust from him the infamous slander officially promulgated against him.

The Petition to the Houses of Parliament protested against the proposed measure, and presented arguments in support of the protest. October 21 he advertised a meeting of the inhabitants of Town and Township of Kingston for the following Saturday at "Moore's Coffee House." This advertisement began: "The unexpected and ill-advised speech of Sir Peregrine Maitland, together with the servile reply of the Assembly, not only threatening to curtail public liberty but descending

to personal abuse of myself"; and the meeting was "to consult . . . as to measures for declaring the real sentiments of the people and for maintaining the cause of the truth." The meeting was held at Waterloo instead of Kingston, October 24th, and was very favourable to Gourlay's views, as was another held at Ernest Town, October 26. This success induced him to hold meetings through the Midland and Newcastle Districts, and so far as the circulation of the Kingston Gazette extended, the results were flattering: Fredericksburg, Adolphustown, Hallowell, Sophiasburg (Nov. 3), Ameliasburg, Sidney and Rawdon, Cramahe (Nov. 7), Haldimand (Nov. 9), all protested against any charge of sedition, and most sent in addresses to Sir Peregrine Maitland deploring that selfish and wicked men had got his ear and induced him to believe that the people of the Province were seditious; and they asked him to dissolve the existing Parliament and call another which would represent the people at large so that the enquiry into the state of the Province might be carried into effect. (99)

When he got as far west as Hamilton Township, immediately above Haldimand, he met a severe check. A meeting of the inhabitants of that township was held November 11 at "the village of Amherst" (now the "Court House" *the west of* at Cobourg); about fifty very respectable people attended. Gourlay addressed them for nearly three hours, and was replied to by Charles Fothergill. What purports to be Fothergill's speech on the occasion but "smells of the lamp" and rescension, was published in pamphlet form in York the same year.

This speech is chiefly noticeable from the attempt to prejudice the audience against Gourlay by hinting that he was an agitator who desired to make Upper Canada a part of the United States—a charge that everyone who has attempted to better the form of Government in this Province has at some time had to meet, from the time Simcoe charged Cartwright and Hamilton with being republicans. A more unfounded charge than this against Gourlay was never made.

A set of resolutions was adopted at the Amherst meeting adverse to Gourlay; though he contends that his petition was not rejected but that some farmers signed it, it never made its way to the Governor. This was beyond question a bitter drop in Gourlay's cup.

The next day he met a similar reverse at a meeting of inhabitants of Hope Township, but he attributes these defeats to the alleged fact that "towards the middle of the Newcastle District few of the farmers are in the habit of reading." (100) He does not seem to have held meetings west of Hope.

November 27 an address was forwarded by the inhabitants of the Township of Cornwall still more adverse to Gourlay, deprecating the sedition and discontent in the garb of patriotism which had originated with "such an individual." (101)

In the meantime the Committee of the Friends of Enquiry had drawn up their Petition to the Lieutenant-Governor and waited upon his Secretary for an opportunity to see him. His Excellency sent for

them and asked what they wanted. They said that they desired to wait upon him with an address from the representatives of a numerous and respectable body of His Majesty's loyal subjects in the Province. He asked if they conceived he would receive a Petition from so unconstitutional a body. They answered that the meeting was not unconstitutional, at least in Upper Canada. He said it was, and that they had his answer. They made their bow and retired. Being anxious that he should not take any hasty step but have full time to consider, they sent the petition, October 23, to his Secretary, Major Hillier. An answer came the same day that His Excellency refused to receive it for the reasons already given. The Committee reported the result forthwith, October 24, to their Constituents. (102)

*In law, the Court has just voided itself out of existence*

Parliament implemented the promises made in the addresses of the two Houses and passed an Act introduced by Jonas Jones, 58 George III., cap. 11, forbidding assemblies, committees or other bodies or persons elected or otherwise constituted or appointed to meet under the pretence of deliberating upon matters of public concern or of preparing or presenting petitions, complaints, remonstrances, declarations or other addresses to the King or Parliament "for the alteration of matters established by law or redress of alledged grievances in Church or State." This extraordinary piece of legislation was of course aimed solely at Gourlay and the movement originated by him; and no one now doubts that it was a disgrace to the Governor, his advisers and Parliament—"the members of Convention had met at York prior to any law to prevent the meeting of delegates; they had met in compliance with the desire of many thousands of their fellow-subjects, and were wholly unconscious of evil; they were men of tried loyalty; they had held militia commissions during the war; some had been wounded; some had been taken prisoners and all had behaved well." (103)

*1818*

When Gourlay heard of the first reading of this Act he exclaimed, "Gagg'd, gagg'd, by jingo," and wrote some doggerel. This much pleased a Magistrate of his acquaintance, and remembering that Molière used to read his comedies to his old house-keeper to test their effect on the public, he made up his mind that these words having pleased the Magistrate would please the Canadian public. Accordingly when he wrote the next Address, December 3, 1817, appearing in the Niagara Spectator, he headed it "Gagg'd—Gagg'd, by Jingo":

"GAGG'D—GAGG'D, BY JINGO."

"Dear, sweet Canada! thou art gagg'd at last.  
A babe of mighty Wellington, come o'er the sea  
Has, with thy own foul fingers, gagg'd thee."

He continues: "Our union is broken up and our boasted right of petitioning is now little better than an old song." Quoting the Act, he justifies what had been done by himself and his friends, and urges all to see to the representatives in the next House of Assembly being what they should be; to hold meetings to protest against the Act; tells the people that the Petition to the Prince Regent is on its way to him

and that it must have some effect in alleviating the evils complained of. (104)

This Address had unpleasant results for the editor of the *Spectator*, Bartimus Ferguson. Isaac Swayzie, a member of the Assembly, swore to an information against him for a false, malicious and seditious libel against the Governor and Legislature of the Province; William Dickson was the Magistrate who issued the warrant. Ferguson was arrested and imprisoned in the Niagara gaol, but this prosecution was dropped and Ferguson released.

Gourlay published a spirited article upon this: "It is . . . evident that persecution and terror are now on foot to deprive the people of this Province of the inestimable liberty of the Press." (105) In the same issue he printed an open letter to those who had met in May at St. Catharines as representatives of the inhabitants of the townships; informed them that they might still meet as individuals, and asked them to meet him on Saturday, December 26, at St. Catharines for a conference; he also suggests a meeting of the Townships of Niagara, Grantham and Louth to consider instructions to their member. (106) Before that day arrived he was himself in gaol.

Isaac Swayze laid an information against him under the Act of 1804, 44 George III., c. 1, a Sedition Act occasionally but improperly called an Alien Act. Much misunderstanding as to the statute and no little of Gourlay's animadversions have their origin in this mistake. Some colour indeed is given to the supposition that the Act was an Alien Act from its history which can be read in the proceedings of Parliament now available through the valuable publications of the Ontario Archives.

The Lieutenant-Governor, General Peter Hunter, in his Speech from the Throne, February 1, 1804, recommended Parliament "by some wise and salutary law . . . to protect the King's Government against aliens." The Legislative Council in their answer, February 8, promised to attend to framing such salutary measures as might be calculated to protect the King's Government against aliens; and the next day the Legislative Assembly promised "timely precautions against the insidious designs of hostile aliens."

The Legislative Council took action first. February 14, Mr. Baby moved, seconded by Mr. Duncan, for leave to bring in a Bill, "the Alien Bill," and did so. The Bill was read a second time the following day, and was referred to the Committee of the Whole, who dealt with it that day and the 23rd and 24th (when we meet for the first time, a change in the name of the Bill, i.e., "for better securing the Province against all seditions, attempts or designs to disturb the tranquillity . . .") The Bill was read as engrossed, February 25th, when it was re-committed and considered in the Committee of the Whole and also February 27, when it was passed and sent to the House. The House passed it without amendment, February 29, voting down an amendment to limit its operation to four years. March 9th the Governor gave his assent and the Bill became law. (See also Note 107.)

There can be little doubt that while at first the object of fear was the large number of American citizens with republican principles who were coming into the Province, the Council during the passage of the Bill were impressed with the necessity of protecting the people against a totally different class; that is, the United Irishmen who flocked to Upper Canada after the rebellion of 1798 and the succeeding troubles in Ireland. Most of these were sworn enemies to British rule, none too firmly established in the Province. It was at least in part against these that the Act was aimed—there can be no kind of question that the Act was aimed at British-born subjects as well as aliens; no distinction is made and no reference to allegiance. The Act (set out in full in the note) provides that the Governor, Lieutenant-Governor, Administrator, Members of the Legislative and Executive Councils, the Judges of the King's Bench, and any person duly authorized for that purpose, might issue a warrant to arrest any person "not having been an inhabitant . . . of this Province for . . . six months next preceding the date of such warrant, or not having taken the oath of allegiance to our Sovereign Lord, the King, who hath . . . endeavoured or hath . . . given just cause to suspect that he . . . is about to endeavour to alienate the minds of His Majesty's subjects of this Province from his person or Government, or in anywise with a seditious intent to disturb the tranquility thereof." When such accused person is brought before the person issuing the warrant, if he "shall not give to the person . . . granting such warrant . . . full and complete satisfaction that his . . . words, actions, conduct or behaviour has no such tending or was not intended to promote or encourage disaffection to His Majesty's person or Government," an order is to be made in writing to the accused person to depart the Province within a time named. If he did not obey, he might be committed to prison "without bail or mainprize," unless freed by the Lieutenant-Governor, until he could be tried "for such offence" at the Assizes or by Special Commission. If he should be convicted, he was to be ordered to leave the Province, and if he refused or should return without licence from the Lieutenant-Governor, should "suffer death as a felon without benefit of clergy." It was further provided that if any question should arise as to the accused having been an inhabitant of the Province for six months or having taken the oath of allegiance, the proof should "lay" on him; and any action for anything done under the Statute must be brought within three months after the act complained of. (107)

Twelve months before, Gourlay had been warned by Thomas Clark that he might be arrested for publishing his Addresses. Upon asking him to produce the Act of Parliament authorizing such an arrest, Clark produced this Act, 44 George III., cap. 1. Gourlay, after examining it, said triumphantly: "That, sir, is only applicable to aliens! I am a Roman, touch me if you dare! I am a Roman and will appeal to Caesar." Clark examined the Statute with care, and confessed that he had laboured under a mistake, and that the Act applied only to aliens. (108). This seems to have confirmed—if indeed it needed or admitted of confirmation—the opinion of Gourlay as to the application of the

Statute, for which there is no shadow of justification either in the Act itself, in its name or in its history; this seems to have been the first time the Act was applied to a British subject, though several Americans had been banished under its provisions.

Who the draftsman was is not certainly known. Gourlay with an unfairness which characterizes all his references to Chief Justice Powell, insinuates without actually charging that he was the cause of it being passed: "There can be no doubt . . . the . . . statute was framed in the Cabinet of London and sent abroad to be palmed on the poor sycophantish witlings of the Province by some **pawkie**, well-paid politician, perhaps trebly installed in power with a seat in the Executive Council, a seat in the Legislative Council and on the Bench. (109) It is to Powell that he always applies the expressive adjective "**pawkie**," unnecessary to define to a Scotsman, impossible to define to any other. (110). But Powell was not **persona grata** in 1804, he was not a member of either Council, and moreover we have his private correspondence with Sir Francis Gore about this very Act when he could have had no possible motive for concealing the truth. He says: "I almost persuade myself that the English lawyer who drew the Bill, wrote in one of the clauses 'or' for 'and' which makes all the difference between a just enactment and an almost absurd tyranny which ever disgraced a Legislative Act." And he points out that the enactment "subjects Earl Bathurst if he should pay a visit to this Province and his Looks should offend Isaac Sweezy to be ordered out of the Province by the enlightened Magistrate, and if that Disobedience which constitutes the offence is found by a Jury, to be banished, under penalty of Death should he remain or return without the Slightest Enquiry into the Cause or Justice of the worthy Magistrate's suspicion that he was a Suspicious Character." (111)

It is probable that a Bill was drawn up in England and sent out for the consideration of the Local Parliament; that that Bill applied only to aliens, but that it was extended in passage to cover the case of British subjects as well.

An examination of this most extraordinary piece of legislation discloses that anyone might at any time lay an information against any person British subject or not, loyal or not, of whatever standing, socially, financially, politically, charging sedition or causing suspicion of sedition; that, e.g., any Legislative Councillor might thereupon issue a warrant and bring the accused before him; that when the accused was so arraigned he must, if he desired to establish that the Act did not apply to him, prove that he had been an inhabitant of Upper Canada for six months before the date of the warrant, and that he had taken the oath of allegiance. If he did so prove by legal evidence, he was free; but if for any reason he did not (and no one accused could give evidence on his own behalf), he must then prove to the "full and complete satisfaction" of the Councillor that his words, actions, conduct or behaviour were innocent; if he did not succeed he might be ordered to quit the Province; if he failed to do this he could be jailed (and no Court could bail him),

tried for the offence of not leaving; if found guilty of this offence he could be banished; if he did not leave the Province or returned without a licence, he could be hanged. Nothing but the most urgent necessity could justify placing such an extraordinary power in the hands of one man without appeal and without the right being reserved to the sufferer to the assistance of the Courts. And nothing could justify the setting in motion of that law years after all necessity for it had ceased and in a case which did not require its application.

— Gourlay at the time and constantly thereafter charged William Dickson, the "jumble-brain," with being the instigator and author of the prosecution; and no denial has ever been made. Swayzie he treats — with the most perfect contempt, calls him a spy, a horse-thief, a perjurer. and so dismisses him from consideration. (112)

## CHAPTER IV.

### Final Prosecution and Banishment.

He was arrested and immediately (December 21, 1818) brought before Dickson and William Claus, another Legislative Councillor, Dickson presiding; there were present other magistrates and others. Dickson asked him if his name was Robert Gourlay? Did he know Mr. Cobbett? Did he know Mr. Hunt? Was he at the Spa Fields meeting? Was he ever in Ireland? Was he lately in the Lower Province? Was he lately in the United States? Was it he who wrote the article in the Spectator headed "Gagg'd, Gagg'd, by Jingo"? and received an affirmative answer to each question. He thereupon announced his opinion that Gourlay was a man of desperate fortune, and would stick at nothing to raise insurrection in the Province. In this he was supported by Thomas Clark and William Claus, Legislative Councillors, Mr. Alexander McDonel (brother-in-law of President Smith), and Dr. Muirhead. The Act was read and Gourlay insisted that it did not apply to him, a natural-born British subject. He said, moreover, he had been an inhabitant of the Province for eighteen months, and that he had taken the oath of allegiance. Dickson said he had not done so in Upper Canada, and Gourlay did not pretend he had. It seems to have been the opinion at the time in administrative and legal circles that the oath of allegiance contemplated by the Act was an oath taken after arrival in the Province. Perhaps this interpretation was to a certain extent based upon the provision of the Act already mentioned, 30 George III., cap. 27, but it is doubtful whether this construction would now be placed upon the Act. In that view there can be no doubt that Gourlay was amenable to the Act; and indeed his main contention to the end of his life was that the Statute did not apply to a native-born subject.

He must then give to Dickson and Claus "full and complete satisfaction that his words . . . were not intended to promote or encourage disaffection to His Majesty's . . . Government." It is probable that an angel from heaven could not have proved this before that tribunal, but could Gourlay have proved it before any tribunal? "Gagg'd, gagg'd, by Jingo!; our boasted right of petitioning is now little better than an old song . . . this law . . . gives some plea for sedition . . . those fine resolutions so fondly treasured up by Sir Peregrine Maitland" who "came out full charged with prejudices against the people. . . . From the Governor's speech we may infer that both Houses of Assembly have surrendered their contested privilege to the Crown. Sir Peregrine would have done a mighty deal of good by initiation, had the public mind been tranquil. . . . The Commons of this country if they had common sense and firmness need not truckle in any way to power," urging petition to the Prince Regent as the only way to safety, etc., etc. Is not all this plainly encouraging dis-

affection to the Government, harmless though it may have been, wholly proper and even laudable according to our modern notions as it is?

After having been remanded for an hour to the gaol, Gourlay was brought again before the Councillors and received a formal written order to leave the Province on or before January 1st, 1819, a ten days' respite. He refused; he had made arrangements to enter business in Upper Canada as a Land Agent, and it would be ruinous for him to leave; besides, "*Civis Britannicus fuit*," and he stood on his view of the law.

On the 4th of January, a warrant for arrest was issued by Dickson and Claus, and he was again thrown into Niagara gaol.

He thereupon applied for a writ of Habeas Corpus, engaging a lawyer to prepare the papers, but not taking any advice as to his rights, which he believed then and at all times he knew without assistance from any source. A petition was drawn up in proper form, presented by the attorney to the Chief Justice, who ordered the issue of a writ accordingly, January 20, 1819. The sheriff obeyed the writ, took Gourlay by land around the head of the lake to York before the Chief Justice, February 8. The Chief Justice asked Gourlay: "Have you brought any person with you?" meaning, of course, "Have you any counsel?" though Gourlay says he does not know the object of the question. The material upon which the application was founded is still extant: an affidavit of Peter Hamilton and one of Robert Hamilton that Gourlay was understood to be a native-born subject, the former knowing his connections in Britain, and the latter adding that he had been domiciliated in Niagara District for nine months. Then Gourlay's own affidavits that he had "taken the oath of allegiance to our Lord the present King, and that he hath been an inhabitant of the Province of Upper Canada now more than a year." No argument was advanced in support of the application and the Chief Justice endorsed the writ, "The within-named Robert Gourlay being brought before me at my Chambers at York required to be admitted to bail as not being a person subject to the provisions of the Act of His Majesty, Chapter 1st: and the warrant of committment appearing to be regular according to the provisions of the Act, which does not authorize bail or mainprize, the said Robert Gourlay is hereby remanded to the custody, etc., etc." Under this, Gourlay was taken by the sheriff to Niagara and there placed in the gaol, travelling the same weary road round the head of the lake.

There are two grounds of complaint alleged by Gourlay at the time against Powell in this proceeding, first, "he could as well have expressed his opinion to my attorney . . . before he granted the writ of Habeas Corpus as to myself after being obliged to travel ninety miles to hear the award." Had the Chief Justice expressed his opinion before granting the writ, it would have been grossly improper and a righteous ground of complaint. It was his plain duty which he understood as well as any Judge on the Bench, to hear all that could be said in favour of the discharge of the prisoner. Had he done as Gourlay suggests, it is

quite certain that not only would Gourlay not have stayed his application, but he would most strenuously have protested against such a prejudging of his case.

Then it is said that the Judge said that Gourlay "required to be admitted to bail," which he says he did not. This complaint arises from a misunderstanding of the law. The Imperial Act of 1816, 56 George III., cap. 100, was not in force in Upper Canada (113) and all the law was to be found in the original Habeas Corpus Act of 19 Charles II., cap. 2. Under that Act every application to Court under a Writ of Habeas Corpus was an application to be admitted to bail.

Later Gourlay makes another and a graver charge against the Chief Justice, namely, that he violated the law in refusing his discharge. Dent says (*Story of the Upper Canadian Rebellion*, Vol. 1, p. 29), "there could hardly have been a clearer case." Kingsford, *History of Canada*, Vol. 9, p. 233, after paying a tribute to Powell's knowledge of law, "Powell was an unusually good and sound lawyer," adds: "On this occasion he permitted himself to countenance a wrong which must ever bring discredit on his good name. The highest authorities in England pronounced his proceeding to be illegal. Sir A. Piggott subsequently declared that it was his duty to have released Gourlay from imprisonment. . . . He refused all justice, not by reference to any principle, not by one of the enunciations of law which make law the highest of sciences and the first of blessings in securing us liberty and prosperity, but on the miserable technical plea, worthy of the most tricky attorney, that the warrant of commitment was regular and that the Act did not authorize bail." This last rhetorical saying is based upon a fundamental and inexcusable mistake as to the duty and power of a Judge. A Judge does not make the law—that is for the Legislature, and a Judge must take it as he finds it. He cannot arrogate power which is denied him by the Legislature, but must in his office do what the Legislature directs by its words and must loyally obey the same as any other citizen. A Judge who acts otherwise, not only may but should be removed. Where the Act forbade bail or mainprize, it was no more possible for the Chief Justice to admit to bail than it was for the Sheriff.

But it is said that he should have discharged the prisoner and that the highest English authorities including Sir Arthur "Piggott" said so.

The only authority for this statement is Gourlay himself. He says in January, 1820: "In the meantime (i.e., after his recommitment to Niagara gaol and his trial), I wrote off to various quarters for legal advice. From Montreal, from Edinburgh, from London, the replies of most respectable lawyers were uniform, that my imprisonment was illegal, and the late Sir Arthur Piggott declared that not only should the Chief Justice of Upper Canada have granted my liberty applied for by writ of Habeas Corpus, but that a good action lay against the Magistrates." (114)

No lawyer of any standing would give a legal opinion intended to be acted upon, under the circumstances, except in writing; there is no

such opinion set out or definitely referred to in all Gourlay's voluminous effusions. There is nothing to show whether the lawyers had the Statute before them or knew anything about it—purely local Act as it was—or whether they had even the papers which were before the Chief Justice. The facts are stated in a publication of Gourlay's, twenty-five years later, from which it appears that when in gaol he, March 24 and April 27, 1819, wrote to his wife to consult British lawyers, and that she told him she had consulted Mr. Cranstoun (afterwards Lord Corehouse) and Sir Arthur "Piggott," both of whom gave their opinion that his imprisonment was illegal, (115) This is not quite the way to obtain a reliable legal opinion. There is no other record as to the Montreal lawyer unless it be that mentioned as to the happenings in January, 1820, "Six weeks after trial it was pointed out to me by a gentleman of Montreal on my way home . . . for the first time that . . . the word offence used in the Statute could . . . be applied . . . to the mere refusal to obey." (116) If Gourlay had anything in the way of a considered opinion, it is inconceivable that with his mania for recording, he would not have recorded it as he did that of an eminent London counsel to whom all the proceedings, Statute, etc., were submitted by him to advise on a petition.

Mr. Adam, of Lincoln's Inn, in his written opinion, February 24, 1821, comes to the conclusion that Mr. Gourlay was answerable to the Act, that the burden was cast upon him of proving that he was not and that he neither did so nor offered to do so before the Councillors. This opinion Gourlay answers, not by asserting or producing opinions to the contrary, but by violently asserting "It was not necessary for me to take the oath of allegiance at all. . . . I never thought anything more was required for procuring my enlargement but the fact that I was a native-born British subject. . . . Chief Justice Powell never pretended ignorance of it, and upon the knowledge of this alone he was bound to set me free." (117) If it was on any proposition like this that the alleged opinions of British and Montreal lawyers were founded, they were worthless. And even if Sir Arthur Pigott did give such an opinion (and it is to be noticed that Gourlay did not know him well enough to spell his name properly) there does not seem to be any reason for accepting the view of an English equity lawyer who had left the common law bar twenty-five years before, of the interpretation of a local and quasi-criminal Statute, rather than that of one equally well educated, trained at the same bar, of at least equal ability, with a perfect knowledge of our Statutes and many years' experience in criminal law. Even a superficial examination of the material will show that Powell was right in every respect even if he could have gone into the facts; there was no doubt of the power of the Councillors Dickson and Claus to make that kind of an order; the order was regular in every respect, and the only way Gourlay could avoid the order was to prove that the Act did not apply to him. The Statute placing the onus upon him, he must prove: (1) that he was an inhabitant of Upper Canada, and (2) that he had taken the oath of allegiance before the issue of the warrant. The first may perhaps be taken as proved by the affidavits; the second is not, and that Mr. Adam draws attention to in his opinion, and adds:

"Indeed I had collected from page 6 (of a petition drawn up by Gourlay's solicitor) that he had not taken the oath of allegiance before his commitment." To this Gourlay's only reply is: "Mr. Adam rests importance on my not having taken the oath of allegiance as prescribed by the Act when it was not necessary to take the oath of allegiance at all." (117) It may be asserted with the utmost confidence that there is not a Judge in the British possessions who would have done other than Powell did—if he did he would be doing wrong.

In the meantime the "Gagg'd, gagg'd, by Jingo" letter of December 3, 1818, had drawn down the wrath of Captain James Fitz Gibbon (the hero of Beaver Dams), who in a letter of December 8, addressed to the militia of Upper Canada, repelled the calumnies of Mr. Gourlay as to the alleged "scandal against the Province hitherto reported by military men." Gourlay, January 5, wrote a spirited counter-article reasserting the truth of his charges. Fitz Gibbon returned to the fray January 5 and January 13, and Gourlay wound up the debate February 2, disdaining to keep up "low personal bickerings . . . at this awful period." Another correspondent, "Verax," wrote in the Upper Canada Gazette, February 25, a letter referring to Gourlay's last, and suggesting that he did not continue his controversy because Fitz Gibbon had truth and evidence on his side; and so this wretched squabble ended. (118)

The Grand Jury at the Quarter Sessions of Niagara, January 14th, in their presentment to the magistrates, stated that they felt hurt that a report had been circulated against the loyalty of the Province and of that District particularly; they reprobated and disapproved "of the proceedings which have taken place to give rise to such suspicions." Gourlay, January 20, wrote the Spectator from gaol that readers of the Spectator knew well that what the Grand Jury were assailing was the proceedings of the Friends of Enquiry and that the presentment was intended to bolster up Sir Peregrine Maitland and the House of Assembly; he protested that "sedition" was mentioned for the first time in Clark's placard, and that the second alarm arose from his two prosecutions for seditious libel. The editor did not insert this at once, but informed Gourlay that what the Grand Jury reprobated was the proceedings in Parliament and Gourlay's arrest; and then Gourlay wrote a letter, January 26, containing that statement and had the two letters published together.

Upon the presentment being made to the Magistrates, they drew up themselves an Address to the Lieutenant-Governor and transmitted it along with a copy of the presentment. This address *inter alia* lamented that "this loyal District has been calumniated; and from the wicked and insidious diffusion of the writings of a very few discontented, virulent and malignant characters, it is presumed that this district is the concentration of folly and the focus of sedition and disloyalty. . . . We trust that the arm of the law has vigour to reach and wisdom to punish such," etc., etc. This was signed by twenty-five magistrates, the sheriff, one member of the House (Isaac Swayzie), four Captains and many other gentlemen of standing. A gracious answer was vouchsafed by the

Governor. Then came an Address from the inhabitants of Queenston, equally strong and along the same lines, "aware how much disquiet has been occasioned by the too unguarded writings and publications of an individual," and confident that the constitution was "sufficient . . . to repel the mischievous and unlawful attempts of designing men, and keep firm in his seat of authority the Representative of His Majesty."

Gourlay published a letter to many of the signatories—Thomas Dickson, the supposed draftsman, he reminded that the very first of his writings which breathed a political opinion in Upper Canada he had entrusted to Dickson's hands with discretionary power to publish it, and that he had published it. To Hepburn he said: "And you were the carrier of the Queenston Address! And you were invited to the Governor's table for carrying the Address! And the Address obtained for you a seat next her Ladyship!" He reminded him that but eleven months before, he (Hepburn) had lent his signature to prove that Thomas Dickson had subscribed a dollar to the cause of Enquiry. Some others he reminded that they had met him in St. Catharines during the past summer and highly extolled his conduct, and then and there directed to be published the writings for which he was tried twice at the Assizes; and in righteous indignation asks: "For what reason . . . should you now join in the host of my enemies, work up prejudice against me in the public mind, prejudice my case and blast every hope of an impartial trial? . . . Fie upon you! Such conduct is mean and infamous; it is unjust, ungenerous and inhuman." This is one of the letters which show the persecuted man at his best. John Clark, one of the alleged signatories to the Queenston Address, wrote saying he did not sign, and Dr. Lafferty publicly apologized to Gourlay and the inhabitants of the Township of Stamford for having signed the Address, admitted that he deserved their contempt for doing so, and begged forgiveness, "as the Apostle Peter wept in bitterness for having thrice denied his Saviour, and received pardon." These must have been some little consolation for the much-tried Gourlay, apparently deserted by all, kinsfolk, friends, co-workers and acquaintances.

For a time his imprisonment does not seem to have been harmful to his health. He gave the whole of the public money allowed for his maintenance (nearly a dollar a week) to the gaoler, to ensure civility and cleanliness, and for a time all went reasonably well. (119) Gourlay continued his communications to the press; May 22 he wrote to the Spectator deploring the desertion of Magistrates and others from the popular cause, and enclosing an Address, the fourth, to the Resident Land Owners of Upper Canada, of date May 20, and written in view of the meeting of the House then imminent.

After referring to his former addresses, he attacked some of the Representatives who "believing every preconceived notion of character and conduct, showed themselves in brutal opposition to the quiet and peaceful exercise of constitutional right . . . made party against the cause of truth and liberty." "Gentlemen," he continued, "you can no longer boast of freedom; you are in fact at this moment slaves." He

instanced his own case, and asked: "Was it to be enslaved that you came from the States of America, from Britain and from Germany? . . . to sow the seeds of despotism that you lifted the axe to clear away these woods?" "In prosperity, in adversity, I have through life been uniformly the same; enthusiastic and sincere in every public undertaking; often imprudent; sometimes foolish; but never for a moment have I harboured criminal design." He hopes against hope that Parliament may do some good, ridicules the suggestion that Upper Canada has the same Constitution as the Mother Country, and winds up by promising to continue the subject. (120)

In January, James Durand, a Member of the Legislature, had written the *Spectator* defending himself against an attack by Gourlay. The prisoner, now at leisure, June 1, answers, calls Durand to task and lashes him for his vote for the Bill forbidding Conventions. After comparing the Convention movement thus forbidden with similar movements in England, he concludes: "Look at that, you gagging bill apologist! Look at that, every Spoiler of his Country's liberty! Look at that, every betrayer of his 'sacred trust!' Look at that, you prater about 'piety' and the 'insignia of honour!' Look at that, you lick-spittle, and off to Sir Peregrine Maitland. Off, off, you Spartan dog—off to Little York and make clean the Parliamentary journals by gobbling up your vomit." (121)

The Address of May 20 attracted the attention of Captain C. Stuart, a resident landowner near Amherstburg; he had formerly been in the East India Company's service, and was then studying Divinity. In his letter he combats the proposition that Canadians were slaves; points out that Gourlay's imprisonment (which he lamented) was in the regular and legal (though extraordinary) course of the laws; thinks that Canadians need not blush in a comparison with Americans; as a landowner sees no reason for a Commission or Petition to the Prince Regent, and concludes a courteous letter by asserting that he has no object but the public good.

July 5 Gourlay answers in a somewhat rambling letter, reasserts the illegality of his imprisonment and the "disgusting truth" that Canadians are not as free as Americans, defends his language concerning Maitland by quoting that of Christ concerning Herod—in which "Herod is likened to a brute, noted for being cruel, cunning and thievish, a brute which prowls about under the eloud of night. . . . How admirably does the similitude apply to the general dispositions and habits of Provincial Governors, who in all ages have proved the most deceitful, cruel and rapacious tyrants!" He proceeds to insult Stuart by saying, "Mr. C. Stuart resembles so strongly the second James that I cannot help thinking him the lineal descendant"; and closes with invective against him which can scarcely be said to have been called for by anything Stuart had written. (122)

But more important matters demanded his attention. The House met June 7, and on that day he wrote an open letter to the Members

of Parliament, published in the *Niagara Spectator*, June 10. He began by saying: "It is a lamentable fact that men will sometimes continue to hate those whom they have injured, for no other reason but because they themselves have already done so much wrong." With this inauspicious beginning, he addresses the representatives at great length and with much generality. He "condescends to particulars"; e.g., he sketches out an entirely new scheme of taxation, advocates good roads, St. Lawrence navigation, and gives a plan of immigration from Britain. June 14, he writes another open letter to the Representatives, going into immigration, a Convention Commission, taxation, the funding system, St. Lawrence navigation, his account of the first settlement, etc. A continuation of this letter, June 17, goes into taxation, immigration, St. Lawrence navigation, etc. (123)

In the *Niagara Spectator* of June 10 had appeared a report of part of the Lieutenant-Governor's Speech from the Throne, and of the reply of the two Houses of Parliament. Maitland had said that while the Prince Regent had authorized the Governors of both Canadas to bestow land on certain of the Provincial navy and of the militia who had served during the war, he did not consider himself justified in extending this mark of approbation to any of those who had composed the late Convention of Delegates. This extraordinary and wrong-headed piece of arbitrary despotism, the Council felt the propriety of, and the Assembly offered His Excellency their most humble and hearty thanks for his gracious speech, and lamented "that any portion of His Majesty's subjects should have forfeited their claims on the bounty of the Government." This unjust punishment of men who had been guilty of no wrong-doing and whose motives were unimpeachable, exasperated Gourlay. He took time to consider, and at length, June 28, wrote a letter to the *Spectator*, flaying the Representatives, the sycophants around the Governor, the Duke of Richmond, who might "chuckle with the thought that the tenants and labours of his estate now at nurse may now be held . . . perhaps till he has made a fortune out of the taxes of Canada, so as to keep him at ease though he should go home and find them all ruined and starved"; "the treachery of the Commons," "poor creatures, poor Peregrine," "a thing called Excellency, a British General, forgets the laws of honour, of prudence, feeling, justice; his deeds say Britons are but slaves; and slaves he finds to justify his deeds." "Bonaparte . . . gave himself to British honour, and now he pines in prison, a scandal to the British name. Aye, just as I, a lesser victim pine"; and he calls upon the Militia "to refuse to receive land till they receive it without fee and without distinction."

July 5, the House voted this "a scandalous, malicious and traitorous libel," and requested the Lieutenant-Governor to cause the authors, printers and publishers to be prosecuted by the Attorney-General. His Excellency complied with the request. Bartimus Ferguson, the Editor and Publisher of the *Niagara Spectator*, was at the time on Talbot Road, a hundred miles away from Niagara. He had been assured in the preceding December that he would not thereafter be blamed for publications, provided he kept the manuscript bearing the signature of the

author. Notwithstanding this assurance (which by the way, no one had legal power to give), he was arrested at his home in Niagara, taken from his bed in the middle of the night, July 13, by the Sheriff, Thomas Merritt, under a warrant issued against him on two criminal informations at the instance of the Attorney-General. He was at once taken to the gaol and kept till morning, when the Sheriff took him by water to York. He was brought before the full bench of three Judges. At his own request he was remanded to the gaol at York till the following day, to give him an opportunity of considering the charges against him. He procured copies of the two informations filed against him, and next day was again brought before the Court. He pleaded not guilty and was remanded for trial at Niagara. Ferguson says that Merritt's treatment of him was beastly in the extreme; having been ordered to take his prisoner back to Niagara where he could find bail, he remained at York two or three days rioting and gambling, Ferguson being in York gaol and his business neglected at home. He complains also of ill-treatment on the way home (he was brought by land and exposed to view as a malefactor, says Gourlay), and charges that this conduct of the Sheriff was due to his being reprimanded by the Attorney-General for allowing Gourlay writing material, which conduct of the Attorney-General caused the Sheriff to fear the loss of his position. That there was much ground for such fear became manifest a little later. Ferguson also charged that the Sheriff read the manuscript of the article for which he took him to York before it left the gaol, and also of a subsequent article for which he was being prosecuted. (124) Ferguson was at length brought back to Niagara, he procured bail, and was released for the time. Gourlay begged him to have his case traversed over to the August Assizes, and let him (Gourlay) have an opportunity of defending his own writing, but in vain. He then entreated his lawyer to defend his client on the argument used by Erskine in the case of Cuthell, but in vain. (125) They were sanguine of success, and perhaps ambitious of appearing as champions of the Press; but Ferguson was convicted, August 19, (126) and immediately committed to prison. Ferguson, the ensuing term, November 8, was brought before the Court at York and sentenced to pay a fine of £50 (\$200) and to be imprisoned in the common gaol at Niagara for eighteen months—in the first of these months he was to stand in the public pillory between the hours of 10 a. m. and 2 p. m.—at the expiration of the time he was to give bonds for good behaviour for seven years, and to be imprisoned until the fine was paid and security given. Some of this scandalous sentence was remitted on Ferguson making a humble submission. (127)

Returning to Gourlay—after he had been confined for two months, his health began to suffer, and he was allowed to walk along the passages and sit at the door. This continued for some four months or so, when he wrote the letter of June 28. The publication of this apparently caused the Sheriff to be reprimanded or warned; at all events, Gourlay was again confined to his cell, and was not allowed to converse with his friends except through a hole in the door, with the gaoler or under-sheriff watching. The Quarter Sessions, which should have taken cognizance of

this barbarous treatment, did not. Notwithstanding the closeness of the watch upon him, he managed to have his letter of 19th July carried to the Press by a gentleman who had been with him in his cell; and this angered the gaoler. A week afterwards he got out a letter complaining of his own treatment, but this the editor refused to publish, with the excuse that he had promised the under-sheriff that he would not publish any more of Gourlay's productions. Another letter, complaining of the treatment of other prisoners, had no better fate; not one line of his was allowed to see the light for four weeks before his trial. (128)

The *saeva indignatio* which so preyed on the fine mind of the Dean of St. Patrick attacked the mind of one much like him in *perfervidum ingenium*. He says: "Exasperation of mind now joined to the heat of the weather, which was excessive, rapidly wasted my health and impaired my faculties. I felt my memory sensibly affected, and could not connect my ideas through any length of reasoning but by writing, which many days I was wholly unfitted for by the violence of continued headache." He was a nervous wreck, perilously near insanity. One morning, gasping for breath, he asked the gaoler to give him air by opening the window—the brute refused, because Gourlay had sent out the letter in favour of Ferguson already referred to. Some time before the Assizes the heat moderated, and he was able to write out his defence, covering every point which he thought likely to come up in a trial for seditious libel. Gourlay never till the end of his life could disconnect the trials and acquittals at Kingston and Brockville from the entirely different charge at Niagara; he over and over again complains that he who had been acquitted twice should be prosecuted again. A short time before the trial he was informed that he was not to be tried for sedition or libel, but for the statutory offence of refusing to obey the order to leave the Province; he accordingly prepared a protest against that course. But he was again and definitely informed that this was to be the charge; his overwrought mind gave way, "a state of nervous irritability of which I was not then sufficiently aware deprived my mind of the power of reflection on the subject; I was seized with a fit of convulsive laughter, resolved not to defend such a suit, and was perhaps rejoiced that I might be even thus set at liberty from my horrible situation." (129)

His trial came on August 20, 1819, before Chief Justice Powell at Niagara. He was determined not to defend a prosecution for refusing to obey the order of Dickson and Claus, but had a formal protest all ready prepared against a conviction for such offence.

A good deal of "fine writing" has been indulged in, in describing this trial, much of it due to a want of appreciation of criminal proceedings. It was, after all, but a commonplace affair, a charge practically undefended and incapable of being defended. It is quite true that the indictment set out the circumstances under which the order was made, but that did not put in issue whether the prisoner had been guilty of sedition, as seems to be thought by some. (130) It was mere matter of inducement and need not and could not be proved on the trial, any more than the allegation that the accused "had not the fear of God in his

heart but was instigated by the Devil." Indictments in those days and for long after were technical and cumbrous, and had not attained the simplicity of the present day.

The prosecuting Counsel, the Attorney-General, John Beverley Robinson, had simply to prove the order and the prisoner's disobedience, and the Jury was bound to convict. Gourlay says that the Jury was packed. This is a suspicion which may be well founded, but there was no need of packing; the admitted facts necessitated a conviction unless the Jury should be false to their oaths. Many years after, that is in 1841, Dr. Dunlop ("Tiger" Dunlop), M.P., who espoused Gourlay's cause, said that the conviction was brought about by "a most lawyer-like and quibbling construction as to the meaning of habitancy. The Judge informed the astonished Jury that to constitute habitancy a man must possess a dwelling of his own; living in the house of another could not make a man an inhabitant." (131) This is quite different from Gourlay's statement: "My fate, I believe, was determined by a misconstruction of the Judge of the word 'inhabitant.' To the best of my recollection this was defined to mean a person who had paid taxes or performed statute labour on the roads." Gourlay says that the question was started by an Englishman (not named), who had dined with him at the same table for months. (132)

No one who has had any experience with reports given by those in Court as to rulings of a Judge will be inclined to place much reliance on even contemporary reports; and it is reasonable to express very strong doubt as to the Judge saying anything about the meaning of "inhabitant" at all, at least in directing the Jury in the case. The Statute lays the onus of proof on the accused; he gave no evidence, and there was no need of anything being said of inhabitancy, etc. Chief Justice Powell was a sound lawyer, and no one was less likely than he to bring in irrelevant matter; while the Attorney-General understood his profession if anyone did. Dr. Dunlop's sneer at the lawyer-like quibble is based upon the erroneous view of a Judge's duty already referred to. If Powell did define an inhabitant as Dunlop imagines, he was following in substance a decision then very recent in the Court of King's Bench in England. (133) Outside of a Court of Law everyone may decide for himself whether a man should be called "an inhabitant of Upper Canada for six months," who had come out for a temporary purpose, intending to return, and who had made up his mind to remain only a few weeks before his arrest.

When Gourlay's case was called on for trial, "the action of the fresh air," as he thinks, "after six weeks' close confinement, produced the effect of intoxication." "I had no control over my conduct, no sense of consequence, nor little other feeling but of ridicule and disgust for the Court which countenanced such a trial." He forgot the written protest he had ready in his pocket, could not even remember the word "protest," and when he was found guilty he asked a jurymen if it was for sedition. (134) This, his own account, is borne out at least in part by the evidence already spoken of given in 1841 by three of those pre-

sent. But all this had no effect on the trial; the admitted facts condemned him; and he had already determined not to defend such a prosecution. He was sentenced forthwith, the Court pronouncing the only sentence allowed by the Statute, banishment on pain of death for disobedience.

A few words now as to the whole wretched prosecution:

In the first place the Committee of the House appointed in 1841, reported that the Statute was unconstitutional. <sup>(135)</sup> This may mean one of two things, either that the Parliament of Upper Canada had not the legal power to pass such a Statute, or, that having the power, it should not have exercised it. If the former be the meaning the statement is baseless, for no one can doubt the power of Parliament. Of the unwisdom of passing such an Act there can be little doubt unless there was extreme necessity, and of that no one can judge who is not acquainted with the state of the Province at that time. The extraordinary power given to Legislative Councillors and others is not unlike that given now to the Minister of the Interior in the case of undesirable immigrants. But it must be remembered that none of those concerned in the prosecution of Gurlay was responsible for the legislation passed fifteen years before.

Then the Committee say that the Statute had an unjust construction placed upon it. For this there is no justification; the construction placed upon it by the Court was the only possible construction.

The Committee add that the power of the Councillors was "most illegally exercised." Their power was exercised in strict accordance with law however unwisely and with however improper motive.

The Report of the Committee was answered most conclusively in a Report of a Committee of the Legislative Council which is said to have been written by the Hon. Robert Baldwin Sullivan, <sup>(163)</sup> and which is worthy even of that distinguished lawyer and judge.

## NOTES TO PART I.

\*. In these Notes the following contractions are employed:

"Nep."—"The Banished Briton and Neptunian" or "The Neptunian." See Note 111 to Part II.

"Ap."—"An Appeal to Common Sense . . . of the British Nation." See Note 37 to Part II.

"Chron. of Can."—"Chronicles of Canada . . ." See Note 117 to Part II.

"Stat. Ac."—"Statistical Account of Upper Canada . . ." See Note 20 to Part II.

"Gen. Intro."—"General Introduction to Statistical Account of Upper Canada . . ." See same Note 20.

"How. St. Tr."—Howell's State Trials.

"Ves."—Vesey's Reports (Chancery).

"V. & B."—Vesey and Beames' Reports (Chancery).

"B. & Ald."—Barnwell and Alderson's Reports (English).

"U. C. L. J."—Upper Canada Law Journal.

"Introduction," "Introd.", etc.—"Introduction to The Banished Briton and Neptunian No. 1."

"C. B., N. S."—Reports (English) of Cases in the Common Bench, New Series.

"East"—East's Reports of Cases in the King's Bench (English).

"Jour. Leg. Assy," etc.—Journals of the Legislative Assembly, Upper Canada.

(1)—See his holograph dedication of his "Letter to the Earl of Kellie," to the Resident Landowners of Upper Canada, now in the Public Reference Library, Toronto—cf. Note 16 infra.

(2)—Nep. No. 2, p. 5.

(3)—Nep. No. 7, p. 71.

(4)—Nep. No. 15, p. 133 (n). Gourlay says "the second who perished at the stake for the cause of religious liberty."

(5)—Ap. xlii.

(6)—Introduction.

(7)—Introduction and Nep. No. 19, p. 212. He did not graduate at either academy, but the records of his attendance at both still exist (from information kindly furnished to me by the Registrars of the universities). The "profound Mr. Robinson" was of course Mr. John Robison, Professor of Natural Philosophy at the University of Edinburgh. He is now remembered only from his curious book attacking Freemasonry, "a lasting monument of fatuous credulity," as it has been rightly characterized—"Proofs of a Conspiracy against all the Religions and Governments of Europe, carried on in the Secret Meetings of Freemasons, Illuminati, and Reading Societies," 1797. Edinburgh, 8 vo., with subsequent editions in Edinburgh (1797), Dublin (1798), London (1798) and New York (1798).

(8)—Introduction.

(9)—Ap. xlii. Professor Hume was David Hume, nephew of the more celebrated David Hume, the philosopher; he was Professor of Scottish Law in the University of Edinburgh and became Baron of the Scottish Exchequer—he is best known by his Reports.

(10)—Introduction, Nep. No. 1; Nep. No. 23, p. 269.

(11)—Introduction, Nep. No. 1.

(12)—Ap. lxii.

(13)—Ap. pp. 34, 35.

(14)—Nep. No. 4, p. 41.

(15)—This was Thomas Erskine, 9th Earl of Kellie and of the line of the first Earl; not long after, John Francis Miller the 9th Earl of Mar proved his right to the

Earldom of Kellie, on failure of the male line of the first Earl of Kellie and ever since the earldoms have been united.

(16)—Letters/to/The Earl of Kellie/concerning/The Farmer's Income Tax/with a Hint on/the Principle/of/Representation/etc., etc./ . . . . London/Printed by Pallantine and Law/Duke-Street, Adelphi/sold by E. Wilson, Paternoster Row/and may be had of all Booksellers/1818/ (Price two Shillings).

(17)—Ap. p. 63.

(18)—Introduct., pp. 12, 13.

(19)—Introduct., p. 13; Ap. pp. 22, 163.

(20)—See the report of Gourlay v. Duke of Somerset (1812) 1 V. & B. 68.

(21)—Ap. p. 69.

(22)—Ap. pp. 75, 76.

(23)—Gourlay v. Duke of Somerset, (1815), 19 Ves. 429. (Sir William Grant for a time practised law in Montreal.)

(24)—Tyranny of Poor Laws/exemplified./Bath./Printed by Gye and Son, Market-Place./By Robert Gourlay,/March 13, 1815.

(25)—"Poor Laws, No. 2." "H. Gye, Printer, Bath."

(26)—The/Village System/Being a Scheme for the/Gradual/Abolition of Pauperism/and/Immediate/Employment and Provisioning/of/The People/By Robert Gourlay/Printed and Sold by Henry Gye, Market-Place, Bath/Sold also by Highley and Son, Fleet Street, London/Gilmour, Salisbury and other Booksellers/1817.

(27)—The/Petition/for the/Benefit of the labouring Poor/Presented and not Presented/By/Sir Francis Burdett/Discarded by Lord Cochrane/and/Spurned by Lord Folkstone/Now laid before Parliament/With occasional Correspondence/and Remarks/on the Subject of the Poor Laws/Parliamentary Reform/By Robert Gourlay/Printed and sold by Henry Gye, Market-Place, Bath/Sold also by Coulton Devizes. Vardy, Warminster/Gilmour Salisbury and other Booksellers/1817. 42 pages, octavo.

(28)—The/Right/To/Church Property/Secured/and/Commutation of Tythes vindicated/In a Letter/to the/Rev. William Coxe/Archdeacon of Wilts/London/Printed for Highley and Son, 174 Fleet-Street/and sold by all other Booksellers/1815. 41 pages, octavo.

(29)—Liberty of the Press/Asserted/in/An Appeal/to the/Inhabitants of Wilts/and/a Letter/on the/Corn Laws/Bath.

(30)—This is indicated in several passages.

(31)—Nep. No. 25, p. 304.(n)

(32)—Nep. No. 17, p. 180.

(33)—Nep. No. 25, p. 302.

(34)—Nep. No. 25, p. 302.

(35)—Ap. p. 75.

(36)—Nep. No. 25, p. 319, no. 24; p. 320, no. 26; p. 323, no. 29.

(37)—Nep. No. 1, p. 15; No. 17, p. 180.

(38)—Nep. No. 25, p. 304, no. 4; p. 302, no. 1.

(39)—Nep. No. 20, p. 237 n; at another place he says "On my voyage to Quebec, it occurred that something might be done by circulating queries for information necessary to emigrants." Introduct., p. 15.

(40)—One of these (the St. Lawrence diagram) is prefixed to Vol. 1, the other to the General Introduction of the "Statistical Account of Upper Canada, 1822."

(41)—Nep. No. 19, p. 209, note.\*

(42)—Nep. No. 25, p. 305, no. 6 and note at p. 308. He says apparently with perfect seriousness that this two-months sickness was "caused by the stinging of mosquitoes" and that it undid his plan of returning home in six months. Nep. No. 22, p. 238 (n). If this is true, mosquitoes have played no small part in our history.

(43)—Ap. p. 170.

(44)—Nep. No. 25, no. 7, pp. 309 and 310 (wrongly paged 301 in the pamphlet).

(45)—Nep. No. 19, p. 209.

(46)—Nep. No. 16, p. 154; Nep. No. 19, pp. 206, 207.

(47)—Stat. Ac., Vol. 1, pp. 521, 522.

(48)—Nep. No. 25, p. 314, no. 16.

(49)—Nep. No. 17, p. 177, n.

(50)—Nep. No. 22, p. 240.

(51)—A Visit to the Province of Upper Canada in 1819 by James Strachan/Aberdeen/Printed by D. Chalmers & Co./For James Strachan, Aberdeen/Longman. Hurst Rees Orme and Brown London; Oliver and Boyd, Edinburgh; W. Turnbull, Glasgow and E. Lesslie, Dundee/1820. Nep. No. 26, pp. 348, 349 and note on p. 352.

(52)—Nep. No. 26, p. 348.

(53)—Nep. No. 17, p. 176.

(54)—Nep. No. 17, p. 177.

(55)—Nep. No. 17, p. 179. (The letter is dated January 8, 1817, but it is plain that the date should be 1818.)

(56)—Nep. No. 21, p. 231.

(57)—Nep. No. 21, p. 232.

(58)—Nep. No. 19, pp. 205-214.

(59)—Nep. No. 18, p. 201.

(60)—Gen. Intro., pp. cxcix-cc.

The attack on the Ex-President was of course the able and spirited open letter to ex-President Jefferson, which every Canadian must admire and approve; the propriety of the letter to Lord Selkirk is still a matter of dispute.

(61)—Nep. No. 30, p. 411, and many other places.

(62)—Nep. No. 18, pp. 191-200.

(63)—Nep. No. 19, p. 214. The sheets were sent to York for binding but they seem to have been lost (except two copies stitched for Gourlay's own use). Some dozen or so years thereafter, the sheets came to light in a garret, and were sold by auction with someone's household effects. Mr. Doxstader, a journeyman printer, who had set up Gourlay's matter in the Upper Canada Gazette and the Niagara Spectator, and also the volume in question, bought a copy. Meeting Gourlay at Cleveland, Ohio, in 1837, he gave him the copy from which, February 27, 1844, Gourlay printed the matter a third time with two extracts from Canadian newspapers in The Neptunian, No. 19.

(64)—Nep. No. 25, p. 313, no. 14; do. p. 314, no. 16.

(65)—Nep. No. 20 (all).

(66)—Nep. No. 21, pp. 224-230.

(67)—Nep. No. 26, pp. 330-332.

(68)—Nep. No. 22, (all).

(69)—Nep. No. 25, p. 315, no. 18.

(70)—Nep. No. 25, p. 316, no. 19.

(71)—Nep. No. 22, p. 252.

(72)—Nep. No. 22, p. 252.

(73)—Chron. of Can., 1st Edit., (1842), p. 4.

(74)—The reference is to the trial of "Friends of the People" in 1793.

In August 30th and 31st, Thomas Muir, Jr., of Huntershill, was tried before the High Court of Justiciary at Edinburgh for sedition. The substance of the charge was attending and taking part in meetings to amend and reform Representation in Parliament. This was in those days considered sedition, at least in those of lower rank and condition in life. The pannel was accused of seditious harangues, vilifying the King and constitution, representing the monarchical part of the government as cumbersome and expensive and inciting the people to insurrection and rebellion—the occasion being two meetings, one at Campsie and the other at Kirkintilloch. The Lord Justice Clerk told the jury that two things were certain and required no proof: "First, that the British Constitution is the best that ever was since the creation of the world and it is not possible to make it better . . . . the next . . . . that there was a spirit of sedition in this country last winter which made every good man very uneasy. . . . (His Lordship) never liked the French all his days and now he hated them. . . . Mr. Muir had . . . . gone about among ignorant country people making them forget their work and told them that a reform was absolutely necessary for preserving their liberty which if it had not been for him they never would have thought was in danger" and much more of the same sort. The jury convicted; and the unfortunate reformer was sentenced to fourteen years' transportation.

An/Account/of the Trial/of/Thomas Muir,/Esq., Younger, of Huntershill,/ Before the/High Court of Justiciary, at Edinburgh. . . . /Edinburgh/ . . . .," (a somewhat rare publication of which I have a copy); 23 How. St. Trials, 117, 1405.

Muir was sent to Botany Bay, rescued by an American ship in 1796, wrecked on Nootka Sound, taken captive by the Indians, treated well in Mexico and imprisoned at Havana. Being sent to Spain in a Spanish frigate, he was seriously wounded by shot from British cruisers which attacked her; left for dead, he was afterwards imprisoned in Spain. He was released at the instance of the French Directory but died of his wounds, 1797, at Chantilly. There is a monument to his memory and that of other Scottish political reformers on Calton Hill, Edinburgh, erected in 1844. *good!*

In the following month, September 12th and 13th, 1793, at Perth, Scotland, the trial for seditious practices of the Revd. Thomas Fyshe Palmer, of Dundee, a Unitarian Minister, was held before the Circuit Court of Justiciary, Lords Eskgrove and Abercrombie presiding. The "seditious practices" were the writing and publishing the address of the "Friends of Liberty"—substantially a plea for reform in parliamentary representation and against the war with France. Palmer was convicted and sentenced to seven years' transportation. He remained in banishment till 1800 and when on his way home was captured by the Spaniards; he died a prisoner in 1802, his body afterwards being exhumed and reinterred at Boston, Mass.

The/Trial/of the/Rev. Thomas Fyshe Palmer/before the/Circuit Court of Judiciary,/held at Perth on the 12th and 13th September, 1793,/on an Indictment for Seditious Practices/ . . . . /Edinburgh/ . . . .," (Also a rare volume in my Library); 23 How. St. Tr., 237.

The trial of James Tytler, at Edinburgh, for sedition, January 7, 1793, 23 How. St. Tr. 1; of James Morton, James Anderson and Malcolm Craig, at the same place, for the same offence, January 8th, 9th and 11th, 1793, 23 How. St. Tr. 7, and many others, reports of which are to be found in the State Trials, Vols. 22, 23 and 24—all are like that of Muir, and are no doubt those to which Gourlay refers. They were a disgrace to the Government and excusable only because of the alarming condition of the country by reason of foreign wars.

Adolphus, in his History of England, gives some account of them, Vol. V., pp. 538 sqq.

Clark was much more nearly accurate in his view of the effect of the Scottish cases than Gourlay; under the law as it was judically laid down, there can be no doubt that Gourlay and all those attending the meetings would have been convicted of seditious practices—and Gourlay for his writings would undoubtedly have been very severely punished.

✓ This is an instance, among several, of Gourlay's acting upon his firm conviction that he knew more about law than anyone else, Judge, Counsel, Attorney or Legislator—a conviction for which he paid very dearly more than once.

(75)—Chron. of Can., 1st Edit., pp. 5-10.

(76)—Nep. No. 25, p. 317, no. 22.

(77)—Chron. of Can., 1st Edit., pp. 12-14.

✕ (78)—Nep. No. 30, passim: Nep. No. 26, pp. 335, 336: Nep. No. 12, pp. 108, sqq.: Nep. No. 13, pp. 113-120.

(79)—*Oliver v. Oliver* (1861) 11 C.B., N.S., 139. Our Canadian Statute R.S. Can. (1906), c. 66, s. 83, making a letter once it is posted the property of the addressee, simply lays down explicitly what has always been the law.

(80)—Nep. No. 30, pp. 419-421.

(81)—Nep. No. 30, p. 428. He continues: "I made search as to the true history of the nose, one said it was injured by a stroke of Mrs. Walker of the Hotel (i. e. Walker's Hotel, Kingston) with a brass candlestick, another that it was cut with an axe; but as Mr. Paul Peterson, who was raised in the same neighbourhood, assured me that while Hagerman was a boy he fell and had it smashed on the lip of a kettle in consequence of the stair ladder of the log house wanting a rung." There is no doubt of the currency of such rumours. In a pamphlet published at Buffalo by Charles Faxon, Printer, in 1838, entitled "A Letter to John Walton, editor of the Shrewsbury Chronicle, England, from Rowland Wingfield, Upper Canada," appears on p. 38 the following: ". . . that singular character who calls himself the 'Father of Reform in Upper Canada', Robert Gourlay, a man notorious for having attempted to horsewhip Lord Brougham in the lobby of the House of Commons and who actually did horsewhip Mr. Hagerman, the Attorney-General of Upper Canada, and that so severely as to have entirely spoiled his beauty, leaving him minus part of his nose." When a lad, half a century or more ago, I heard the same statement more than once: it was current tradition. He is the same Hagerman whom Mrs. Jameson playfully, perhaps a little maliciously, calls "that great mastiff Hagerman," and afterwards Judge of the Court of King's Bench. ✓

(82)—Nep. No. 13, p. 116. This was the steamboat which excited so much admiration in Dr. John Howison, and which he described in most enthusiastic terms: "The largest steamboat in Canada, her deck is one hundred and seventy-one feet long, and thirty-two wide; she is seven hundred and forty tons burden and draws only eight feet of water when loaded. Two paddle wheels, each forty feet in circumference, impel her through the water," and, "when the wind is favourable sails nine knots an hour with ease." "Sketches of Upper Canada, by John Howison, Esq." First (and best) edition, 1821, pp. 47, 48, 54.

(83)—Nep. No. 30, p. 408.

(84)—This was a pamphlet published at the Niagara Spectator's Office in May, 1818, containing an address by the Representatives of the Niagara District, Gourlay's third address, reports of various township meetings, Clark's and Hamilton's Handbill, Gourlay's address to the worthy Inhabitant of the District of Niagara, April 21, 1818, and a draft Petition to the Prince Address. See Chron. of Canada, pp. 1-14; Nep. No. 22, p. 264; Nep. No. 30, p. 427. The pamphlet is very rare (I have seen a copy priced at \$20.00 in a second-hand dealer's catalogue); the title reads thus: "Principles and Proceedings of the Inhabitants of the District of Niagara, for addressing/H. R. H. the Prince Regent, Respecting/claims of sufferers in War Lands/to Militiamen,/and the general Benefit/of/Upper Canada/Printed/at the Niagara Spectator Office/1818" 24 pp.

The Transactions of the Convention were also published about the same time, Nep. No. 30, p. 427, and in August, 1818, the Narrative of Gourlay's journey in that summer in the Province. Nep. No. 30, p. 427.

(85)—Nep. No. 25, p. 320, no. 26. Chron. of Can., 1st Edit., p. 23; Nep. No. 13, p. 123.

(86)—Nep. No. 25, p. 322, no. 28.

(87)—Nep. No. 13, p. 118.

(88)—Nep. No. 25, p. 320, no. 26; Gen. Intro. p. dii.

(89)—He was acting Solicitor-General (not acting Attorney-General, as Gourlay states), and received the appointment as Solicitor-General July, 1820; as Attorney-General, July 1829, on the Attorney-General John Beverley Robinson being appointed Chief Justice.

(90)—Ap. pp. 38, 39.

(91)—Nep. No. 30, p. 427. This pamphlet, a 12 mo., is very rare, but a copy furns up from time to time. The Toronto Public Library possesses one: "Address/ to/The jury at Kingston Assizes/in the case of/The King v. Robert Gourlay/for/ Label/with/a Report of the Trial,/etc., etc./Printed at the Gazette Office, Kingston/ August, 1818." It is dedicated, August 20, to the Friends of Enquiry in a dedication, signed Robert Gourlay. Boulton's father was Mr. Justice D'Arcy Boulton, and the alleged murder was a fatal duel; Mackenzie made much of this also.

See also Nep. No. 12, p. 112; Nep. No. 25, p. 318, no. 23. Lake v. King is reported 1 Saunders, 131; 1 Levinz; 1 Modern Rep. 58; Siderfin 414; and is still a ruling case and good law.

(92)—Nep. No. 12, p. 112.

(93)—Nep. No. 12, p. 107.

(94)—Chron. of Can., 1st Edit., p. 29.

(95)—Nep. No. 13, p. 120; Nep. No. 25, p. 320, no. 26.

(96)—Nep. No. 15, p. 134.

(97)—Nep. No. 1, pp. 15, 16; Nep. No. 13, pp. 120, 121.

(98)—Chron. of Can., 1st Edit., pp. 30, 31.

(99)—Nep. No. 15, pp. 133-142; Nep. No. 16, pp. 148, 149.

(100)—Nep. No. 16, pp. 139, 150, 151, 152. The pamphlet referred to as containing Fothergill's speech is a 12 mo. "Proceedings/at a/Meeting/of the Inhabitants of the Townships/of/Hope and Hamilton/in the District/of/Newcastle U. C./Held agreeable to notice/from/Robert Gourlay/York U. C./Printed by R. C. Horne/1818." From an examination of the names signed to the resolution it appears that many of those present were from Hope Township. (This is my place of origin and I recognize the names of many.)

Charles Fothergill, J. P., was an Englishman of good education; he had an "elegant cottage near Port Hope," and Gourlay spent an evening there with him at this time, and, from his seeming friendship, thought he would make a valuable auxiliary of him, but the expectation proved wrong. Fothergill afterwards, in 1821, became King's Printer in York, published the Gazette and an Almanac, continuing his opposition to Gourlay. But in course of time he became member of the Assembly, fell out of favour, and, in 1826, lost his position with unhappy consequences to his fortunes. He and Gourlay met again by accident at an hotel in Niagara in 1839, and were reconciled. Nep. No. 37, p. 498, No. 7 and note. He was an experienced naturalist and wrote several volumes of manuscript on the animals and birds of this continent, supplying Bewick with a horned owl, stuffed, for illustration. He took an active part in a scheme for a Museum and Institute of Natural History and Philosophy with Botanical and Zoological Gardens attached, which fell to the ground. See Scadding's Toronto of Old. The Almanac is not very common. The/York/ Almanac/and/Royal Calendar/of/Upper Canada/for the year/1825/ . . . . (Print of Royal Arms)/York U. C./Published by and for Charles Fothergill, Esq./Printer to the King's Most Excellent Majesty/and sold by all Agents for the U. C. Gazette and Weekly Register/Throughout Canada. At p. 68 he thus writes of "the famous Patriot Mr. Gourlay": "It has always been a subject of regret to the writer of this sketch that one so well qualified to promote the agricultural interests and encourage fresh accessions to our population from other parts of the British Dominions should have intermeddled with politics, since on many questions of political economy, and especially on the subject of the Poor Laws of England, that eccentric being was a perfect adept, whilst on Politics he became not merely bewildered but actually insane." Many at the time, and more since, would agree with Fothergill in these judgments.

(101)—Nep. No. 26, pp. 329, 330. This was forwarded by Archibald McLean, afterwards Chief Justice. Gourlay had had a letter of introduction to him and had been received by him most politely. He had given him some pamphlets to read and circulate, but by the 4th of June he found, much to his astonishment, that McLean

was adverse to him. Nep. No. 26, p. 334. Afterwards, in 1822, when Gourlay was in prison in London, he offered to get out of prison long enough to give McLean a chance to horsewhip him as he had heard McLean had once threatened to do; but McLean, being then in London, had too much sense to accept the offer. McLean had been angered by Gourlay's reference in one of his Addresses to "worldly minded priests, pettifogging lawyers and the spawn of legislative councillors." Nep. No. 30, p. 428.

(102)—Chron. of Can., 1st Edition, pp. 31-34.

(103)—Gen. Intro., p. xi.

(104)—Nep. No. 16, pp. 145-148.

(105)—Nep. No. 16, p. 153; Nep. No. 35, p. 476.

(106)—Nep. No. 16, p. 154

(107)—44 George III., c. 1, U. C. reads:

"An Act for the better securing this Province against all seditious attempts or designs to disturb the Tranquillity thereof.

(Passed 9th March, 1804).

Whereas it is necessary to protect his Majesty's subjects of this Province from the insidious attempts or designs of evil minded and seditious persons; And whereas much danger may arise to the public tranquillity thereof, from the unrestrained resort and residence of such persons therein; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled "an Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province" and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the Members of the Legislative and Executive Councils, the Judges of his Majesty's Court of King's Bench for the time being, respectively, or for any person or persons authorized in that behalf, by an instrument under the hand and seal of the Governor, Lieutenant Governor, or Person Administering the Government for the time being, or any one or more of them, jointly or separately, by warrant or warrants under his or their hand and seal, or hands and seals, to arrest any person or persons, not having been an inhabitant or inhabitants of this Province for the space of six months next preceding the date of such warrant or warrants, or not having taken the oath of allegiance to our Sovereign Lord the King, who by words, actions or other behaviour or conduct hath or have endeavoured, or hath or have given just cause to suspect that he, she or they is or are about to endeavour to alienate the minds of his Majesty's subjects of this Province from his person or government, or in any wise with a seditious intent to disturb the tranquillity thereof, to the end that such person or persons shall forthwith be brought before the said person or persons so granting such warrant or warrants against him, her or them, or any other person or persons duly authorized to grant such warrants by virtue of this Act; And if such person or persons, not being such inhabitant or inhabitants as aforesaid, or not having taken such oath of allegiance, shall not give to the person or persons so granting such warrant or warrants, or so authorized as aforesaid, before whom he, she or they shall be brought, full and complete satisfaction that his, her or their words, actions, conduct or behaviour had no such tendency, or were not intended to promote or encourage disaffection to his Majesty's person or government, it shall and may be lawful for each or any of the said persons so granting such warrant or warrants, or so authorized as aforesaid, and he and they is and are hereby required to deliver an order or orders in writing, to such person or persons, not being such inhabitant or inhabitants as aforesaid, or not having taken such oath of allegiance, requiring of him, her or them to depart this Province within a time to be limited by such order or orders, or if it shall be deemed expedient that he, she or they should be permitted to remain in this Province, to require from him, her or them good and sufficient security to the satisfaction of the person or persons acting under the authority hereby given, for his, her or their good behaviour, during his, her or their continuance therein.

II. And be it further Enacted by the Authority aforesaid, That if any person or persons, not being such inhabitant or inhabitants as aforesaid, or not having taken such oath of allegiance, who by any order or orders so delivered to him, her or them, is or are required to depart this Province within a time limited by that order, should by sickness or other impediment, be prevented from paying due obedience to the same, it shall and may be lawful for the person or persons who hath or have issued such order or orders as aforesaid, or for any other person or persons as aforesaid, authorized by this Act so to do (the person or persons acting under the authority hereby given, being first satisfied that such impediment by sickness or otherwise, ought to be admitted as a reason for such order as aforesaid not having been obeyed) by an indorsement in writing upon the said order or orders, or otherwise in writing, to enlarge the time specified in the said order or orders, from time to time as occasion may require, and if any person or persons so having been required or ordered to quit this Province as aforesaid, and not having obtained an enlargement of such time, in manner hereinbefore specified, shall be found at large therein, or return thereunto after the time limited by any or either of such orders, without licence from the Governor, Lieutenant Governor, or Person administering the Government for the time being, in that behalf, or in case any person or persons who shall have been served with any or either of such order or orders as aforesaid, or who shall have been permitted to remain in this Province, upon such security as aforesaid, shall by words, actions or otherwise, endeavour to give just cause to suspect that he, she or they is or are about to endeavour to alienate the minds of his Majesty's subjects of this Province from his Person or Government, or in any wise with a seditious intent, to disturb the tranquillity thereof, it shall and may be lawful for any one or more of he said person or persons so authorized by this Act as aforesaid, and he and they is, and are hereby required, by warrant or warrants under his or their hand and seal, or hands and seals, to commit such person or persons so remaining at large, or returning into this Province without such licence as aforesaid, or so endeavouring or giving cause to suspect, that he, she or they is or are about to endeavour so to alienate the minds of his Majesty's subjects of this Province, or in any wise with a seditious intent, to disturb the tranquillity thereof, to the common Gaol, or to the custody of the Sheriff of the district, in such districts in which there shall be no gaol at that time, there to remain without bail or mainprize, unless delivered therefrom by special order from the Governor, Lieutenant Governor or Person administering the Government for the time being, until, he, she or they can be prosecuted for such offence in his Majesty's Court of King's Bench, or of Oyer and Terminer and General Gaol Delivery in this Province, or under any special commission of Oyer and Terminer to be issued by the Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being; and if such person or persons, not being such inhabitant or inhabitants as aforesaid, or not having taken such oath of allegiance, shall be duly convicted of any of the offences herein before described, in either of the said Courts respectively, he, she or they shall be adjudged by such Court forthwith to depart this Province, or to be imprisoned in the common Gaol, or be delivered over to the custody of the Sheriff in such districts in which there shall be no gaol at that time, for a time to be limited by such judgement, and at the expiration of that time to depart this Province; and if such person or persons so convicted as aforesaid, shall remain in this Province, or return thereinto after the expiration of the time to be limited by the said judgement, without licence from the Governor, Lieutenant Governor, or Person administering the Government for the time being, in that behalf first had and obtained, such person or persons on being duly convicted of so remaining or returning, before either of the said Courts, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of Clergy. Provided always, That if in the execution of the powers hereby given, any question shall arise touching or concerning the space of time during which any person or persons shall have been an inhabitant or inhabitants of this Province previous to any warrant or warrants having been issued against him, her or them, or touching or concerning the fact of any person or persons having taken such oath of allegiance, the proof shall, in all such cases, lay (sic) on the party or parties against whom any such warrant or warrants shall, in virtue of the powers hereby given, have been granted or issued.

III. And be it further Enacted by the Authority aforesaid, That if any person or persons, at any time, shall be sued or prosecuted for any thing by him or them

done, in pursuance, or by colour of this Act, or of any matter or thing therein contained, such action or prosecution shall be commenced within three calendar months next after the offence shall have been committed, and such person or persons may plead the general issue, and give the special matter in evidence for his, her or their defence, and if, upon trial, a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs, shall become nonsuited, or shall discontinue his, her or their suit or prosecution, or if judgement be given for the defendant or defendants upon demurrer or otherwise, such defendant or defendants shall have treble costs to him or them awarded against the plaintiffs or plaintiffs."

I may add that William Lyon MacKenzie in his speech in the Legislative Assembly May 21st, 1858, when Gourlay asked to be heard before the House, says expressly that the Act was passed to prevent Irish Roman Catholics from settling in Upper Canada—"to keep out the Irish Catholics from this country." See a very rare brochure: Mr. Gourlay's Case/before the/Legislature/with his/Globe Book and Job Office/1858.

That the conclusions in the text as to the objects of the Act are well founded appears in a little work which I had not seen when the text was in hand. The work I refer to is entitled: "Life and Letters/of the late/Hon. Richard Cartwright/Member of Legislative Council in the First Parliament/of Upper Canada/Edited by Rev. C. E. Cartwright/Born 1759, Died 1815/ (Quotation from Tennyson)/Toronto, Canada: Sydney, N. S. W./Belford Brothers/MDCCLXXVI." 12 mo., cloth, pp. viii. 9-145. The book contains a short life of Cartwright by the Reverend Dr. Strachan, and letters by Cartwright to several correspondents from 1792 to 1808 on public matters, legislation, etc. It casts a flood of light on much of our early history and clears up some facts that have been in dispute. Of course there is no possible ground for suspecting anything but the best of good faith. In a letter to the Reverend Dr. Strachan, dated March 17th, 1804, Cartwright, speaking of the work of the Session of Parliament just closed, says: "The renewal of the war with France having been mentioned in the Governor's speech, and the necessity thence inferred of guarding the internal tranquillity of the Province against the insidious attempts of secret enemies, the subject was considered with the attention that so weighty a matter deserved. In the course of the investigation it was understood that the Executive Government already possessed a sufficient power of coercion and restraint over alien enemies; but it appeared likely that other instruments might be employed, and some upon whom it would be difficult to fix the proposed discriminating term of alien. It was agreed also that every political society ought to possess the power of excluding from its limits all strangers who evinced a disposition to excite dissension and inflame discontent among its respective orders; or in other words, to disturb the established government thereof; and on this principle a law was framed, authorizing persons in certain public situations—namely the Governor, members of the Legislative and Executive Council, Judges of the Court of King's Bench, and others to be commissioned by the Governor—on complaint being made against any person not a stated resident of the Province (that is, who had not been an inhabitant for six months before and had not taken the oath of allegiance) to call such person before them and require him to give an account of himself; and if he appeared to have been guilty of improper conduct in this respect or to have given just cause of suspicion of having sinister views of this kind, to order him out of the Province or to make him find sureties for his good behaviour while remaining therein, and the necessary provisions were added for enforcing obedience to such orders." This must dispose of the contention that the Act was an Alien Act, aimed at aliens only, and not at British subjects also. (It may be observed that the conjunction "and" used by Cartwright appears as "or" in the Statute as passed and engrossed). It appears that the Act was really a war measure: that it was not repealed after the war can be fully explained by the conduct of many, both alien and British subjects, during the War of 1812—that painful episode of the war has not yet received the attention it deserves.

(It is to be regretted that we have no more worthy a memorial of this most useful public servant who has helped to make our Province what it is. He was not the "recording animal" which Gourlay boasted himself to be, and we could profitably exchange some hundreds of pages of Gourlay for a few more of Cartwright.)

The records of the Houses of Parliament at York for 1804 are now available to all, and they bear out Cartwright's statements fully. In the Sixth Report of the Bureau of Archives for the Province of Ontario, Toronto, 1911, will be found the course of legislation:-

1804. February 8th, the Lieutenant Governor, Peter Hunter, in the speech from the Throne said: "Among the first objects I would recommend to your deliberation is the security of this part of His Majesty's Dominion, by sane, wise and salutary law, calculated to protect the King's Government against aliens, and to afford His Majesty's subjects in this Province all the internal security which can be derived from timely and well concerted legislative precaution."

February 8th, the address of the Legislative Council in answer to the speech from the Throne, said: "We shall duly attend to the framing of such salutary measures as may be calculated to protect the King's Government against aliens and to afford His Majesty's subjects in this province all the internal security which can be derived from timely and well-concerted legislative precaution."

February 9th, the House of Assembly in its Address in answer to the speech from the Throne, said: "Fully convinced of the good effects to be derived from timely precaution against the insidious designs of hostile aliens . . . we will lose no time in taking these important objects into our consideration . . ."

February 14th, in the Council, on motion of Mr. Baby, seconded by Mr. Cartwright, "that part of His Excellency the Lieutenant-Governor's speech . . . having reference to aliens" was read; and also that part of the answer of the House relative thereto—thereupon "Mr. Baby . . . moved, seconded by Mr. Duncan, for leave to bring in a Bill, the 'Alien Bill. and that the same be now read the first time."

February 15th. In the Council "a Bill intituled 'The Alien Bill' was read a second time."

February 21st, in the Council, "Mr. Cartwright moved, seconded by Mr. Baby, that that part of the order of the day which requires the further consideration of the 'Alien Bill' be discharged, and that the same be taken into consideration to-morrow. Ordered accordingly."

February 22nd, "the order in respect to the 'Alien Bill' " was discharged till to-morrow.

February 23rd, the House resolved itself into "Committee of the whole House upon the further consideration of the 'Alien Bill.' " House in Committee "went again into the consideration of the said Bill" and rose, reported progress, and asked to sit again on the morrow.

It was at this point that the Bill was changed so as no longer to be aimed simply at aliens—for on

February 24th, "the House resolved itself into Committee of the whole House upon the consideration of the Bill 'For better securing the Province against seditious attempts or designs to disturb the tranquillity thereof.' " Amendments were made, agreed to and engrossed.

February 25th, "Read as engrossed a Bill 'For the better securing this Province against all seditious attempts or designs to disturb the tranquillity thereof' " : the Bill was recommended and in Committee of the Whole other amendments were made, and ordered to be engrossed.

February 27th, it was again considered in Committee of the Whole and further amendments made. The amendments were read with the Bill and the Bill as amended adopted. Engrossed, it received the Speaker's signature and was sent down to the House of Assembly by the hands of the Master-in-Chancery, Mr. David Burns.

February 27th, received by the Assembly and read the first time;

February 29th, read the second time and considered in Committee of the Whole which made no amendments. Being reported without amendment, on the motion for the receipt and adoption of the report, Mr. Angus Macdonell, of York, moved,

seconded by Mr. Ralfe Clinch of Lincoln, that the Act should be in force only for four years. On a division, Macdonell and Clinch were alone for the amendment against eleven for the negative. The Bill was passed, signed by the Speaker, and returned to the Legislative Council by the hands of Mr. Samuel Sherwood of Grenville and Mr. John Ferguson of Frontenac. They performed their mission on the same day, and

March 9th the Bill received the assent of His Excellency.

It will be seen that the measure received most careful consideration and must have been thought necessary by those best competent to judge. It will be seen, Chap. 3 of Part II., that Gourlay himself says in his petition of May 4th, 1846, that this Act "was intended for Irish rebels or aliens."

(108)—Stat. Ac., Vol. 2, pp. 490, 491.

(109)—Gen. Intro., p. lxiv.

(110)—Stat. Ac., Vol. 2, p. 516. Gourlay explains the word thus: "Suppose a personage having purloined your sugar plum, sucks it till both his mouth and eyes water with gladness, making you all the time think that such gladness comes from the pleasure of your company instead of the sweet relish of your unseen and lost sugar plum, then you have some idea of the term 'pawkie'; and it will help you on to comprehend, though not altogether, the Chief Justice of Upper Canada." do. do. pp. 516, 517. The nick-name (for the adjective became such) "stuck."

(111)—Letter, Powell to Gore, January 18, 1819, in the Toronto Public Library.

(112)—Nep. No. 16, p. 163; Nep. No. 22, p. 263. Stat. Ac., Vol. 2, p. 498. The estimates of Swayzie differ according to the principles of the writer. Swayzie was a scout during the Revolutionary War; the Americans therefore called him a spy—he took horses for the loyal troops; they called him a horsethief. Some account of him will be found in a note to an article on Early Upper Canadian Legislation and Legislators in 33 C. L. T. for January, 1913, pp. 28, 29. It will be seen that he himself had been found guilty of sedition by a Jury, and therefore he knew something about it. Stat. Ac., Vol. 2, p. 492.

(113)—See In. re Biggar, 10 U. C. L. J., 329.

(114)—Gen. Intro., p. x.

(115)—Nep. No. 25, pp. 324, 326.

(116)—Gen. Intro., pp. lxxvii., lxxviii.

(117)—Gen. Intro., pp. ccexx-ccexxiii.

(118)—Nep. No. 26, pp. 330-334.

(119)—Stat. Ac., Vol. 2, p. 394. There is extant a contemporary description of the gaol at Niagara by a competent and impartial observer—it appears in a work seldom met with, entitled "Travels/through part of/the United States/and/Canada/in/1818 and 1819/By John M. Duncan, A.B./in Two Volumes/Vol. /New York/W. B. Billey, 92, Broadway/New Haven/Howe & Spalding/1823." Cr. 8 vo. boards. Vol. I., pp. xvi.-333: Vol. II., pp. xii.-384.

In Volume II., pp. 107-108, Duncan describes the gaol at Niagara (which "map-makers and travellers persist in calling . . . Newark, but that name is not acknowledged by the inhabitants"):

"Niagara is possessed of a court house and jail; both under one roof. The jail is on the lower floor. The cells, both for criminals and debtors, surround and open from the hall, which leads to the court-room, and the guilty or unfortunate inmates are exposed to the gaze of everyone whom curiosity or idleness induces to enter. The partitions and doors of the various cells are composed of strong pieces of oak firmly bolted together; the doors are about nine inches thick, consisting of two thicknesses of wood with sheet-iron between them. Some of the debtors' apartments have a small window to the outside, but the criminals have no light but from a small semicircular opening in the door. The debtors have fire places, but the criminals have only the miserable comfort of looking out at a stove in the middle of the hall, from which no perceptible warmth can reach their dismal abodes. It must be truly dreadful to pass a Canadian winter in such a place. How miserably does this prison contrast with those in the United States!" ✓

Duncan was a printer of a theological bent of mind, a university graduate, who took a deep interest in penology—he gives a careful description of the prisons at Boston, Philadelphia, etc. He exhibits nowhere any bias in favour of American institutions, rather the reverse.

(120)—Nep. No. 28, pp. 385-392.

(121)—Nep. No. 29, pp. 393-401.

(122)—Nep. No. 33, pp. 457-468.

(123)—Nep. No. 32, pp. 437-456.

(124)—Nep. No. 34, p. 477; Gen. Intro., p. xii.

(125)—This was the prosecution of Mr. Cuthell, one of the most respectable booksellers in London, who dealt almost exclusively in classical literature, and had published the philological writings of Rev. Gilbert Wakefield. Wakefield, through another printer, published a pamphlet in reply to the Bishop of Llandaff, of which some copies were sent to Cuthell's shop for sale without Cuthell's knowledge. Cuthell's shopman sold a few copies also without Cuthell's knowledge, and Cuthell stopped the sale as soon as he discovered the nature of the publication. An information was brought against him at the instance of the Attorney-General, and he was defended by Erskine, who contended that the accused was not criminally liable for the act of his servant. This was not the law at that time, and Cuthell was convicted. After a short imprisonment he was discharged on paying a fine of 30 marks. As the law was the same in Upper Canada as in England, one can easily see the utter futility of a defence on such lines, the absurdity of Gourlay's advice, and the wisdom of Ferguson and his lawyer in rejecting it. Campbell's *Lives of the Lord Chancellors*, Vol. 6, pp. 402-403, 27 How. St. Tr., pp. 641-680. The Cuthell trial was February 21, 1799, and created great excitement at the time.

(126)—Nep. No. 34, p. 477; Gen. Intro., p. xiii. Ferguson's lawyer was Thomas Taylor, an English Barrister called in Hilary Term of that year, and afterwards the Editor of a Volume of Reports of Cases in the King's Bench, Upper Canada, the first legal Reports published in the Province. See "The Legal Profession in Upper Canada in its Early Periods." (Toronto, 1916), at p. 108 and notes.

(127)—See a note on this case in a note to an article on Some Early Legislation in Upper Canada in the *Canada Law Times* for 1913, p. 190, Gen. Intro., p. xiii.

(128)—Nep. No. 34, p. 478.

(129)—Gen. Intro., pp. xiii., sqq. The "strident peal of unmeaning maniacal laughter" of Dent, Vol. I, p. 37, "the maniacal laugh" of Kingsford, Vol. IX., p. 236, at the trial, are mythical. This, not the trial, is the occasion of the insane laugh. Witnesses were in 1841 examined before a Committee of the House on behalf of Gourlay, i.e., William Hamilton Merritt, David Thompson and David Thorburn, M.P. P.'s, who were present at the trial. While they speak of wild appearance, incoherent speech and apparent unconsciousness of what was going on, none suggests maniacal or other laughter. Gourlay does not speak of anything of the kind in all his accounts of the trial. And with his views as to recording it is incredible he should not have mentioned such a striking incident if it had not occurred. Nep. No. 6, pp. 60, 61.

It has more than once been stated that Gourlay brought an action for damages against Dickson and Claus—e.g., in a very recent and very interesting work in *The Chronicles of Canada Series*, i.e., *The Family Compact/A Chronicle of the Rebellion/ in Upper Canada/by/W. Stewart Wallace/Toronto/Glasgow, Brooks & Company/1915*, on page 39 it is said "Gourlay then (i.e., after his remand to gaol by the Chief Justice) attempted to bring actions against Dickson and Claus for false imprisonment, but here, too, he was defeated by legal chicanery. The defendants each obtained an order for security for costs, and Gourlay, lying in jail with his business going to ruin, was not able to raise this security. The actions therefore lapsed, and Dickson and Claus escaped prosecution."

I think this is a mistake. Gourlay does indeed once, and only once, refer to such an action. In the General Introduction, p. x., he says:

"After three months' confinement it was whispered that I should . . . be tried . . . for not having obeyed the order to quit the Province. . . . In the meantime I instituted a suit for false imprisonment and wrote off to various quarters for legal advice."

A little later at p. xxxiii. he says:

"Sir Arthur Piggott and other lawyers of eminence . . . had their decided opinions . . . that those who had caused the arrest were subject to an action for false imprisonment.

In several places he speaks of his hope to have the matter tried by a jury.

But nowhere else than at p. x., in all his voluminous writings, does he suggest that he had brought an action (it is possible that he did not use the word "institute" in the lawyer's sense) and he never at any time complains of its stay. It is incredible that Gourlay, when detailing again and again his wrongs, would have omitted to mention the "lapse" of his action if such had been the case.

I have carefully examined the proceedings of the Court of King's Bench up to Hilary Term, I. Geo. IV., January 13th, 1821, and find no record of such an order being made, nor indeed any record of the actions at all. While the actions might have been begun without any record being extant, an order for security for costs was at that time a matter of Term Motion, a Rule Nisi, etc. (Now, of course, it is a mere Chamber matter if not obtained on *praecipe*.) The fact that no record exists in the Term Book is almost conclusive against any such order having been obtained.

Moreover, if it was obtained, it is somewhat difficult to see "chicanery" in the transaction. The order could not have been obtained on account of the position of the supposed defendants; the Statute does not so provide and there was no general law in that regard. The ground upon which such orders must have been granted if granted at all, could only be Gourlay's absence from the Province. From very early times it was the practice of the English Court, (which our Courts were compelled by law to follow), to order any plaintiff to give security for costs if he was out of the jurisdiction. This is still the law in practically all English-speaking countries, our own included. The order, then, must have been obtained not when Gourlay was in gaol but after his banishment. It looks hard that a plaintiff who is banished must give security for the costs of an action, but it is even more necessary in his case than in that of one living or going abroad, who might come into the Country at any time.

Just about that time a precisely similar order had been made in the Court of King's Bench in England. One Harvey had brought an action against Jacob, and it was all ready for trial when the plaintiff was convicted of a felony and sentenced to transportation. The defendant applied for an order for security for costs, and cited cases in the Court of Common Pleas wherein such an order was refused where the plaintiff was a prisoner in Newgate Prison or a bankrupt or a prisoner of war in France. But the Court granted the order. *Harvey v. Jacob* (1817), 1 B. & Ald. 159.

It should be added that while no order of this kind could be granted on the ground that Gourlay was in prison or penniless, Gourlay never had any trouble in obtaining necessary, even ample, supplies of money, and that he had no business which could be ruined by his incarceration.

The orders, if they were made after he left the Province, had no prejudicial effect; he never would have pressed the actions at the time. I have sufficiently indicated that in my opinion the actions could not possibly succeed, and proceeding with them would be nothing but a waste of time and money.

(130)—Kingsford Hist. of Canada., Vol. IX., p. 236.

(131)—Nep. No. 6, p. 62.

(132)—Gen. Intro., p. xvi., note.

(133)—*The King v. Mitchell* (1809), 10 East, 511.

(134)—Gen. Intro., p. xv.

(135)—Nep. No. 6, p. 58.

(136)—Nep. No. 8, pp. 73-77 (note).

## Part II.

### CHAPTER V.

#### Gourlay Again in England.

Defiant as he was of the law and its officers, Gourlay was not so foolish as to disobey the sentence of banishment. Bewildered and distracted, he made his way across the river and wandered up along the bank until he came to Buffalo. He was fairly well provided with money, the proceeds of drafts made on his friends in the old land; and he remained a week in Buffalo to recruit his shattered health. Then he went to Geneva, N.Y., where he remained the same length of time for the same purpose; then to Albany, where he remained a fortnight. He had intended to make his way to New York and sail thence for home, but at Albany he heard that yellow fever was raging in New York, he determined to sail from Quebec. This he might safely do as his banishment was only from the Province of Upper Canada. But he heard that his brother Tom was in New York, and the epidemic abating, he went down to New York to see him, arriving October 7th, 1819. Leaving New York, October 10th, he made his way by Albany to Montreal and Quebec. He sailed from Quebec, October 24th, and had an uneventful voyage of five weeks and four days <sup>(1)</sup>, arriving at Liverpool December 2nd.

Stopping a day or two at Chester, he then went on to Edinburgh. On his arrival at Edinburgh, December 6th, he learned of his father's death <sup>(2)</sup>, and went almost at once to Craigrothie where his wife and five children were; he possessed himself of the many referenees which had been made to him during the previous two years, in the newspapers of Britain.

January 3rd, 1820, he sent a circular letter "To Editors of British Newspapers." <sup>(3)</sup> In this he defended himself against the charge that he was one of the "worthies who escaped from Spa Field," and denied that he was connected with the schemes of Cobbett and Hunt. He, moreover, explained that in Upper Canada his efforts had no view whatever to a reform of Parliament, as the people there had a perfect representation of which they would soon make a better use. He told of the "Convention" and its objects, his own prosecution and order of banishment, his failure to obtain release on Habeas Corpus, his final trial and its result—all in quiet and decorous language. He asked for instant Parliamentary inquiry, pledging himself to show that 50,000 of the poor inhabitants of Britain could be provided for every year, and a handsome revenue besides yielded to the British Government by Upper Canada; but owing to the King's death he did not press for publication of this circular.

About the middle of January we find him again in Edinburgh; he waited on Constable, an eminent bookseller, to offer him for publication

"A Statistical Account of Upper Canada written by the Inhabitants"; the bookseller informed him that he had had lying by him for some weeks a statistical account of Upper Canada written by Dr. Strachan, which had been sent home recommended for publication by Sir Peregrine Maitland and the Attorney-General, John Beverley Robinson; and he added that he had declined to publish it. (4) Gourlay negotiated with another bookseller and believed that he would be able to get his work printed (as also petitions to Parliament concerning his treatment in Upper Canada) in time to sail for Quebec in the spring. We shall find that he was not destined to see the American continent for fourteen years more.

King George III. died January 19th, 1820, Parliament was dissolved, and Gourlay determined to seek restoration of his health. He first went westward on foot through Lanark, Renfrew and Ayrshire, then to the north as far as Peterhead, Inverness and Fort William, returning to Edinburgh about the beginning of May. (5) He then found Strachan's book advertised, and getting hold of a copy he "readily perceived why the Edinburgh bookseller had refused to be its publisher. From beginning to end it exhibited one continued tissue of weakness and abominations," etc., etc. (6)

The first Parliament of the new reign having now met, Gourlay was anxious to get up to London to present petitions with regard to the state of Upper Canada and to his own case. Being detained in Scotland for a few weeks by the death of a family connection, he left Edinburgh June 2nd, arriving at his accustomed lodging house in Bouverie Street, London, June 6th. Queen Caroline had just landed and was expected in London; the troubles between the Royal pair made it impossible to do any business for weeks, and Gourlay retired to the suburbs to await a more favourable moment.

In the last week of June, 1820, he sent a circular (dated June 10th) to every member of the House of Commons, a few newspaper editors and some friends. (7) The "Statement" was much the same as that of January, and enclosed a draft petition setting out his case, also his belief that Upper Canada would furnish the proper solution of the problem of the poor; and asking that the state of Upper Canada might be taken into serious consideration by the House of Commons. The circular was intended to prepare the minds of the Members of Parliament and others.

Gourlay wrote to Sir James Mackintosh and asked him to present his petition to the House. "Not a single soul took notice of" the circular; "not even Sir James Mackintosh." (8) Gourlay wrote Mackintosh again as he was exceedingly anxious to secure his good offices; Mackintosh made an appointment and Gourlay called upon him. The petition was somewhat amended and was presented by Mackintosh, July 11th, 1820 (9); he expressed his opinion to Gourlay that the House could do nothing for him, but thought the state of the Colony might call for attention.

A petition to the House of Lords was prepared to be presented by Lord Holland, but deferred on account of the Queen's business occupying the attention of the House.

Copies of his "Statement" had in April been sent out to Upper Canada; and during this summer he was cheered by the news of an election in the Colony of a Parliament adverse to the Government. (10)

During the summer Gourlay was having his Statistical Account put through the press; the printing began July 26th, but delay was caused by the non-delivery of the plates ordered; three were ready only by November 1st, and three more were not ready by December 2nd. On that day he received a letter from his wife informing him of her serious condition; he remained in London three days, powerless from solicitude. A letter from his daughter gave him hope, and he left London for Edinburgh, arriving only in time to bear the mortal part of his dearest friend to the grave. (11)

This calamity interrupted the preparation of the General Introduction which he was preparing for his Statistical Account.

It was in this summer that he resolved to enter as a student at law in London. On consulting Campbell, afterwards Lord Chancellor, he was informed that the Benchers would not admit him because of the sentence of banishment from Upper Canada. He informed the House of Assembly of Canada in his speech in 1858 (which will receive attention later) that he borrowed £200 from a friend, intending to enter as a student-at-law, but "because of banishment could not be received by the Benchers"; he does not seem however to have made formal application for admission to any of the Inns of Court.

Ever since his imprisonment at Niagara, he had been the victim of a nervous malady. By extraordinary efforts he conquered this in a measure before going to London; but his terrible and unexpected affliction now threw him into a state of "the most deplorable weakness." He remained in Scotland about three months, wholly unable to go on with the work of publication—he could not "sum up four figures together."

Hoping that change of scene would give relief, he sailed for London from Leith, March 2nd, 1821, arriving in London after a miserable voyage of twelve days, landing still more reduced in strength. Day by day he became worse and worse, and finally on the advice of a friend he offered to accompany Sir Robert Wilson to Naples in the cause of independence. (12) He wrote Wilson, but the scheme fell through and Gourlay was rather glad of it, for he was somewhat ashamed of having offered to be a soldier, agreeing as he did with Gibbon, the historian, that "the courage of a soldier is the cheapest commodity in nature." (13)

He then, April 3rd, started off on a walking tour westward, but the second day's walk was too much for him and he took the coach for Devizes. There an old friend lent him a pony and he visited Bath, Warminster and Salisbury, returning to Devizes, meeting many old

friends. As Cheltenham waters had restored him to health six years before, he tried them again, but this time without avail. Leaving the pony at Devizes, he walked back to London, now somewhat strengthened in body but still unfit for any continued mental effort; he had lost all power of concentrating his thought.

May 7th an article in the Morning Chronicle on the Poor Laws roused his "still feeble mind to action," and by the 24th he was at last resolved to be up and doing. (14)

In June he prepared another petition to the House of Commons in respect of the Poor Laws, warning the House against Scarlett's Bill, which had been introduced, but which had "clearly been drawn up without practical knowledge of the system of the Poor Laws or a due consideration of the circumstances"; it ended by asking that the state of Upper Canada might be taken into consideration and a scheme formed for emigration "in unison with a plan for reforming the Poor Laws." (15) This was presented by Sir James Mackintosh, June 27th, 1821, printed and ignored.

His health remaining bad, he went to Brighton for a week in the early part of July, and did some work on his Statistical Account. August and September he was in London almost wholly incapacitated for work, and in October had to leave again; he went to Margate and made an excursion round the shores of Kent.

He was able nevertheless to carry on correspondence with the Colonial Office. September 3rd he asks on what terms land would be granted to emigrants to Canada, and is referred to the Governor of the Colony. The correspondence continued till October 11th. (16). It showed as Gourlay thought "how completely indifferent Lord Bathurst is to the duties of his office, how callous to distress at home, how regardless of the interests of Upper Canada"; and it must be said there is much ground for such a conclusion.

Having in December, 1820, broken off the writing of his General Introduction after writing 82 pages, he resumed the task September 22nd, 1821, and wrote 146 more pages, all the 228 being in type by December 11th. He then got hold of Cobbett's Cottage Economy, Nos. 4 and 5, and wrote some 22 pages of criticism on that author. Afterwards he wrote up to p. 350 of the Introduction, and got it in the press by the end of the year.

By the middle of the month of December his health again declined and he became totally unfit for business; he accordingly determined on a fourth flight to the country. Being delayed by incessant rains, he set forth on Christmas Eve for the west, intending to stay a week. Near Staines he came across a London post-boy, who in the darkness had driven his carriage off the road and upset it in a gravel pit full of water alongside the road. The poor man was immersed in water up to the hips and had stood on the pole for half an hour calling for help. Gourlay hastened to his aid, but being no swimmer was nearly drowned; how

ever, fastening the coach traces together, he succeeded in dragging the post-boy on shore. <sup>(17)</sup> The wetting brought on rheumatism (from which he suffered all the rest of his life) and he was forced to remain three weeks in the country instead of one. The time was not wasted; he made further enquiry into the wretched condition of the poor and the inefficacy and injustice of the Poor Laws.

January 14th, 1822, he published in the Salisbury Journal an Address to the People of Wiltshire, <sup>(18)</sup> setting out his connection with Hunt and Cobbett, his efforts for an amendment of the Poor Laws and his devotion to the cause of the poor. *? See page 68 \**

Returning to London, he, February 11th, 1822, "concluded" his General Introduction with an Address to the People of Upper Canada; but added another Address fifteen days later on receiving a copy of the York, U.C., "Observer" of December 24th, 1821, "stuffed with debates" of the U. C. Parliament. He finds Jonas Jones active in the Assembly and devotes a few pages to "this fellow Jones," "the oratory of Jonas Jones of Brockville, lawyer, M.P. and Esq." He sets out a petition which he proposes to present (and which was in fact presented by Hume and ordered to be printed February 27th) to the Imperial House of Commons asking for enquiry into the state of Upper Canada, and proceeding along the familiar lines. <sup>(19)</sup> Hume made certain corrections in it before engrossment.

March 8th he takes up the General Introduction again and writes 14 pages; adding a Supplement of 40 pages and an Index, the whole was put to press.

The General Introduction in one Volume of 551 pages and the Statistical Account in two Volumes of XX. + 625 and 704 + CXX. pages respectively, were printed by J. G. Barnard, Skinner Street, London, and published by Simpkin and Marshall, Stationers' Court, Ludgate Street, London, in 1822. <sup>(20)</sup>

The first volume contains an interesting account of Upper Canada (said to have been written by Barnabas Bidwell) with a number of Reports from Townships in that Province in answer to Gourlay's enquiries in 1817; also a short account of Lower Canada.

The second volume is chiefly filled with an account of the legislation and a review of the policies of the Governors and Government.

The General Introduction is a mixture of English and Canadian subjects; chiefly an account of Gourlay's efforts for the amendment of the Poor Laws and his treatment in Canada.

Gourlay was not wholly satisfied with this work. Writing April 1st, 1823, to Hume, he says: "That book was composed while I was in a fever and wholly distorted in its arrangements by grievous occurrences in its progress through the press. Before it came out, I was in a state of distraction. . . . The first volume was intended for separate publication, but the greatest misfortune of my life disabled me from

sending it forth till it appeared a year afterwards with others, which at first were not contemplated and which were produced by a mere series of impulses. It was a most unfortunate publication; yet it exhibits some things in a way which . . . might have lain hid—things well worthy of notice." Every word of this the candid reader must approve. Gourlay also attributes to some criticism in this work of Brougham's Education Bill, what he thought was Brougham's betrayal of him, soon to be described.

It may be added that a third volume was prepared, even the plates being engraved, but it was not published.

July 28th, 1822, another petition, much the same as the preceding one, was presented for Gourlay by Brougham July 18th, 1822. (21) This complained of his treatment in Upper Canada and of the calumnies to which he had been subjected. It even appeared that public money had during his absence in Canada been spent in Fifeshire to watch his motions, which were alleged to be of a treasonable character. He asked that full enquiry should be made.

Again, July 15th, 1822, Brougham presented a petition for him asking enquiry into trade with Canada, etc., etc. (22) Petitions were also presented to the House of Lords.

Failing to receive attention from Parliament, he, August 10th, wrote to the King, setting out his loyalty, his grievances and his failure to obtain relief; he asked for the interference of His Majesty. (23) As was to be expected, the letter went to the Colonial Secretary without effect. (24)

In September, Gourlay believed that his reason was in danger, and that strenuous physical exercise was the only means to save him from mental alienation—"to save life and reason." He determined, therefore, "for good and urgent reasons," to throw himself on the Parish and work as a pauper labourer. There were no financial reasons for such a course; he never had difficulty in procuring such money as he required; some of the newspapers did not hesitate to call him an "amateur pauper."

Accordingly, September 10th, he proved his right of settlement in his old parish of Wily, in Wilts, before the Magistrates at Fisherton, near Salisbury. The following day he was set to work by the Overseer of the Poor, at breaking flints on the public road eight hours a day, receiving pay at the rate of a shilling per ten hours; he also received sixpence a day gratuity from the parish. After a few days he received four shillings and sixpence a week without being required to work; but this did not suit him, and he went back to breaking stones under rather better terms. He went on till November 27th, when the overseer told him he would pay him no more for breaking stones. He could not get pay for what he had done, and summoned the overseer before the Petty Sessions, when the Magistrates ordered the overseer to pay for the work

done, which he did. Gourlay worked on till December 23rd, when he left the parish for some twelve weeks. He left work because flints could no longer be broken on account of the frost, and for a month was "cherished by friends . . . in various parts of the country." He had received remittances from other friends, and made a pedestrian tour through Dorset, Devon, Cornwall and Somerset, "to be able to witness the miseries endured by the poor of England during the severity of the winter and under the influence of the Poor Laws."

He returned to the parish and to renewed disputes with the overseer, March 17th, 1823. The Magistrates, again appealed to, again decided in Gourlay's favour. Continuing to work under the overseer he prepared a petition to the House of Commons, which set out the deplorable condition of the poor as seen by him in his journey and his daily life, and asked for a Commission to come to Wily and make enquiry, etc. This was presented June 27th, 1823, by Hume, ordered to be printed—and forgotten. (25)

This had been preceded by a petition in respect of establishing parish schools, presented by Grey Bennet, June 5th (26), and another presented by the same member, June 19th, on behalf of the poor of Wily (27)—all equally ignored and ineffectual.

During the summer of 1823 Gourlay wrote Sir Robert Peel offering a plan for the reform of the Poor Laws. Peel asked to have the plan in writing, but Gourlay refused to reduce it to writing unless he had a personal interview with Peel. This Peel did not grant, and the matter dropped. (28)

Three petitions prepared by Gourlay and signed by him with others were presented March, 1824. (29) Gourlay at last left Wily and went to Edinburgh, where, May 1st, 1824, we find him writing another letter to the King. (30) This complained of the neglect of his representations about Upper Canada, and asked that he might be allowed to return to the new world without arrest, and that the poor of Wily might be protected by His Majesty. June 2nd: "His Majesty has not been pleased to signify any commands thereupon," says Secretary Peel. (31)

June, 1822, Sir John Astley presented a petition for him asking for parish schools and an amendment of the Poor Laws (32); Mr. Coke, June 10th, another on the general distress and parish provision for the poor. (33) The same month Scarlett presented another on the state of Wily Parish (34), all without avail.

In the early part of the year 1822 he "becoming when alone *fatuus*," made up his mind to die for his children by suicide; he determined to go to Land's End for that purpose and in order to make a greater impression on the public mind; this mood passed away.

In the year 1823 he was advised by a friend to lecture in London on Rural Economy, but he was so tortured with lawsuits in the Court of Chancery and the House of Lords he could not give steady attention to anything. This litigation will be considered later.

In May, 1824, he was met in the streets of London by Mr. Nicol Graham, author of "Three-Fingered Jack," etc., and well known in Montreal. Graham asked him to dinner and told him of the Canada Company scheme then being promoted. Gourlay took a great interest in opposing this scheme, and some of his many petitions to Parliament are against it.

One of the most extraordinary incidents in Gourlay's career has now to be mentioned. When in the spring of 1822 he asked Sir Ronald Ferguson to present his petition in Parliament, Ferguson put the petition, May 8th, 1822, in the hands of Henry Brougham, the better to insure success. Brougham seems to have encouraged the petitioner who made certain changes suggested by Brougham. Brougham offered Gourlay a seat under the Gallery when the petition should be spoken to; Gourlay waited most anxiously for the occasion, attended in the gallery (he sometimes had a seat with the reporter), heard Brougham speak on the beer question, and then saw him walk away. The same day Brougham formally presented the petition without a word in support of it.

Next year, 1823, Gourlay, "now a pauper in the parish where once he farmed" (as he says), refitted the petition "for education to his fellow-paupers" and sent it to the care of Mr. Grey Bennet, writing at the same time in its favour to Mr. Wilberforce. He then, May 21st, 1823, wrote from Berwick Farm near Hindon, Wilts, to Brougham, asking him to plead for the petition and thus "to pay your debts to me by lending then to the poor in general." It does not appear that any answer was returned to this request; but at all events Gourlay became impressed that Brougham's conduct in 1822 was a betrayal of duty, "cruel, unfeeling and treacherous." This feeling became an obsession, and finally he determined to punish the traitor. In a letter to his daughter, 1835, he says: "My rencounter with Brougham . . . June, 1824, was the result of consultation with Dr. Joseph Hamilton—now in Upper Canada, and . . . before I exposed myself by the act, a packet of papers containing with others a letter from Dr. Hamilton to me was sealed by him and by me to remain for my justification." (35) In another passage he says he did it in utter contempt for Brougham after long and serious consideration, in duty to himself, his family and his country, and with the advice of a friend, and that he never would repent of the deed. (36)

On June 11th, 1824, arming himself with a lady's riding whip, he lay in wait for Brougham in the Parliament Buildings, allowed him to pass near the entry to the House of Lords, "followed him quietly upstairs and just as he reached the first pillar in the lobby of the House of Commons, applied the whip to his shoulders as calmly as ever I chastised a child"; three blows were given, according to Gourlay's account. A constable, Thomas Gook, present, gives much the same account and adds the further facts that he pushed Gourlay away, asking him if he knew what he was doing. Gourlay replied: "Yes, I do; he has injured me." Brougham then turned round and said: "Who is the man? I don't know him. What does he want?" Gourlay replied:

"You recollect my petition which you neglected two years ago," and offered Brougham his card, saying: "Let the dead bury the dead, and you do your duty to me." Gook then took out his staff and placed Gourlay under arrest. Gourlay submitted to the authority of the constable, and Brougham asked that he be kept in safe custody, saying: "Poor man! I don't think he is in his right mind." After being held in custody by the constable for two or three hours, he was turned over to the Sergeant-at-Arms. On the House of Commons meeting, the Speaker informed the House of the assault and asked for directions; Brougham gave an account of what had taken place and said he had "an impression . . . of having been told that he was occasionally deranged." Mr. Secretary Peel added his comment that the letters written by Gourlay were such as no rational man would write, and Hume said that he had been confined in consequence of derangement (which, of course, was a mistake). Ultimately it was ordered that he should remain in custody until further order.

In the evening two medical men, Drs. Morris and Sutherland, visited him and apparently thought him insane; they signed a certificate to that effect.

From Hansard, N.S., Vol. 11, pp. 1204, 1317, it appears that June 14th, 1824, Dr. Sir George L. Tuthill and Dr. Edward Thomas Munro certified to the Speaker that they had had several interviews with Gourlay and were of the opinion that he was of unsound mind when he assaulted Brougham, and continued to be of unsound mind; on Canning's suggestion the most humane course was considered to be to detain him without further order until his friends could be consulted.

June 24th Gourlay sent a letter to the Speaker denying unsoundness of mind, and saying his assault had been deliberately planned five months before; he asked that the House of Commons should address the King in order that Gourlay might "have the royal confidence so far as to enable him fully and fairly to lay before ministers his case, his opinions and his project." Needless to say, this request was not complied with; it was rather looked upon as a further proof of the prisoner's insanity.

Next day the House was prorogued; and at 3.30 the Housekeeper of the House of Commons entered Gourlay's place of confinement and told him he might depart as the House had no further control over him. Before this time, however, a warrant had been issued for his arrest; officers watched his departure from the House, followed him as far as Bedford Street, Strand, and there arrested him.

He was brought before Mr. Halls, the Bow Street Magistrate, charged with assault, and under 39 and 40 Geo. III., c. 94, with being a dangerous person of unsound mind. The facts of the assault upon Brougham were sworn to; two physicians, Sir George Tuthill and Dr. Munro, swore that in their opinion Gourlay was of unsound mind, as did a constable. The accused called a surgeon who had had very little experience with

the insane, and a law student; these witnesses thought he was not insane, but the latter considered him "of a singularly enthusiastic turn of mind." Thereupon the Magistrate committed him for trial at the Sessions, saying that he might be admitted to bail the following day on the bail being approved by himself and the Magistrates. Gourlay describes the medical men who gave evidence against him as "bought doctors," but there does not seem to be any reason for suspecting bad faith on their part; they were well-known experts in insanity.

He was taken to the House of Correction, Cold-bath Fields, where he was to remain more than three years.

As soon as he had been taken to the Bow Street Court, he wrote for friends to come to him and some came instantly to give evidence and bail; Mr. Halls said the bail must be satisfactory to the Magistrates of the Sessions—the Magistrates on application made to them referred Gourlay to Mr. Halls; Halls told Gourlay's friends then that no bail could be granted until the doctors reported it safe for him to be at large. Halls offered to send the doctors to see Gourlay, but he declined as the Sessions were near and he expected a discharge.

The Sessions sat July 20th, 1824; Gourlay was brought in by Mr. Vickery, the Governor of the House of Correction, and at once handed the Chairman of the Sessions, Mr. Const, a long document containing an account of events subsequent to the assault, the examination at Bow Street, the committal by Mr. Halls, and his arrival at the House of Correction; and he thereupon demanded to be dismissed from his confinement which he pronounced to be unjust and illegal.

Mr. Bolland, instructed by the Solicitor to the Treasury, appeared for the Crown and opposed the discharge asked for. The clause of the Act was read which provided that persons committed upon the warrant of a Justice of the Peace on the ground of insanity should remain in custody until they put in good and sufficient bail, 39 and 40 Geo. III., c. 94, sec. 3. Gourlay was informed that the Court had no power to discharge him unless he put in bail; Gourlay expressed his dissent from that opinion and demanded a trial and discharge. This, of course, was impossible, and the Chairman, whom he found to be "at once a lawyer and a gentleman," advised Gourlay to go before a Judge who had the power to discharge if the warrant was illegal, which the Sessions could not do without bail being put in. Gourlay refused to put in bail and said: "I would rather remain in prison than consent to be a party to such a gross violation of the liberty of the subject." The Chairman said that heavy bail would not be asked for, and Mr. C. Phillips, a well-known barrister, advised Gourlay for the sake of his family and friends to put in bail and obtain his liberty, but now Gourlay changed his line and refused to put in bail because some might conceive such an act "an admission of the truth of the impudent insinuations which have been made as to the state of my mind." How such an act could by possibility be considered an admission of insanity is difficult to imagine;

but it is certain that Gourlay always afterwards thought that his refusal to put in bail was to prevent his family being humiliated by his insanity.

Gourlay, being "determined to weather it out whatever might be the issue," refused the advice of the Chairman and of the two lawyers who ventured to advise him, and declined to do anything. He was accordingly recommitted.

It is abundantly plain from Gourlay's own account that he was treated on this occasion with the utmost courtesy and consideration (he says he "is well and happy"), that no one wanted his further detention, and that he was not released solely because the law imperatively forbade it. The Chairman's conduct indeed was such that Gourlay inferred that he must have left the Bar for "on my father's authority (and he practised as a Writer, after apprenticeship, more than a dozen years in Edinburgh) to say nothing of my own dear-bought experience, I believe it to be impossible for any practitioner of law to be honest."

March 30th, 1825, Gourlay had a petition presented in the House of Commons by Mr. John Bennet asking that the Lord Chancellor Eldon, then 75 years old, should be removed from all other employment than reforming the Court of Chancery and rendering it efficient for the speedy and sure ends of justice and equity. He sent a similar petition to Lord Eldon himself to present in the House of Lords; Lord Eldon returned it and Gourlay sent it to Lord King for presentation.

A petition in March, 1825, complaining of the bread in the House of Correction failed to be presented, but Gourlay did not press it.

Mr. J. Stuart Wortley in April, 1825, offered to present a petition to Parliament for inquiry into Gourlay's case, and Gourlay had a form of petition made out, as "unless backed by the public there will be but little chance of a fair and full hearing." A number of petitions were signed and sent in.

Mr. Hume, April 25th, presented one from Fifeshire whereupon Peel said that he "was not now confined by Government but merely because he was unable" ("unwilling" should have been the word) to give the security required. He (Mr. Peel) had sent directions that Mr. Gourlay should be kindly treated; nothing was done. It may be mentioned that Peel also said that Gourlay excused himself for the assault upon Brougham "by saying that he had only followed high example by scourging sinners in the temple." Hansard, N.S., Vol. 13, p. 161, gives some account of the scene.

Gourlay, believing that he was "contending for the liberty of the subject and the security of reputation against the vilest and most dread conspiracy that was ever concocted and persisted in by arbitrary power for the ruin of an individual," remained in comfort in the House of Correction; he speaks in high terms of the Governor and officers; some kind friend sent him three excellent blankets, a handsome counterpane and a comfortable morning gown, and he occupied a State room.

March 6th, 1826, Hume presented another petition and Peel said that if security were given for his peaceful demeanour towards His Majesty's subjects, Gourlay would be at once released, that his detention was due to his refusal to provide recognisances to keep the peace—apparently he still thought Gourlay insane.

Hume said he would himself enter into recognisances for Gourlay, but that Gourlay would not allow him to do so until some examination should be made into his sanity, as he seemed to think that if he entered into recognisances without such examination it would be admitting that he was insane; Croker said, judiciously, that the very fact of the Magistrates accepting such a recognisance would be in itself a vindication from the charge of insanity. Again nothing was or could be done. Similar petitions were presented April 26th from different parts with the same result.

In March, 1826, Gourlay determined to publish his "Appeal," and advertised for subscribers at five shillings each. This work, an octavo, contains a narrative of the facts of the assault and imprisonment, many letters sent to his children from the House of Correction, and many extracts from newspapers—this contains 90 pages. Then follow 196 pages of copies of letters, petitions, etc., from June 23rd, 1820, to June 11th, 1825. The work is dedicated to his children—he tells them "The world is still against me, the same world which poisoned Socrates, crucified Christ and imprisoned Galileo." His opening address to the public shows the same delusion of persecution: "The speeches of Mr. Hume, Mr. Peel and others, the conduct of the Speaker and the House of Commons, of Halls, the Magistrate and his masters, of the doctors, newspaper reports and opinions, etc., all require review before an adequate notion can be formed of a conspiracy like to which nothing was ever before got up and persisted in for the ruin of an individual."

"No one can suppose for a moment that the mere peccadillo in the lobby was the sole cause of double arrests and double punishments; or that I would remain obstinate were simple questions alone at issue. No, the wrath—the revenge—the remorselessness has been long treasured up and its virus cannot be exhausted but by endurance. Here is the catalogue of my crimes: In 1808 I espoused the cause of the farmers against the Lairds of Fife. In 1809 published a specific plan for parliamentary reform. In 1815 demonstrated that Church property was the property of the people; and, in the same year, posted the Bath Society as rogues for deserting the commutation of tithes and originating the Corn-Bill. In 1818 I held in Upper Canada, Convention for inquiry into the state of that Province; and all along have taken part with the poor against the rich. For these causes there is no forgiveness—no liberty, till I confirm by my own act a sentence of insanity." This was from one of whom everybody was tired, and who everybody wished would allow his friends to bail him out. The sole obstacle in the way of immediate freedom was his refusal to obey the express direction of a statute, and his obedience to that direction could not by anyone of sense be construed as an admission of insanity. The English people thought they had

achieved a great triumph when by the Habeas Corpus Act they made it obligatory that one confined in prison should be (in certain circumstances) admitted to bail, and no one has ever imagined that giving bail was an admission of wrong-doing.

to issue series after series, whereby "non only would my persecutors be

He expresses his intention if the "Appeal" should repay the printer, put to the blush, but a train of evidence be made out proving, at once, such adherence to great public pursuits, such determined resistance to oppression and such uniform regularity in private affairs as perhaps no other man can boast of"; and he solicits aid to enable him to accomplish this work. (37)

No great sale was obtained for the publication; it is very rare and is seldom offered for sale; and it had no successors.

During his incarceration he wrote frequent letters to his children (he had one son, Oliver, and four daughters, Jean, Janet, Helen and Catherine, who were at Craighrothie). These letters are lively, interesting and such as a loving father of literary ability would write to intelligent children. The curious thing about them is that he sent copies to the London newspapers and had them published and also printed them at length in the "Appeal."

On December 3rd, 1824, (38) he wrote to the King, telling of his petitions to the House of Commons of July, 1820, June, 1821, and February, 1822, the petition presented by Brougham, May, 1822, and one presented *pro forma* to the House of Lords, a letter of August, 1822, to the King, another May, 1824, etc.; he asks for a commission to visit, examine and assist him if found worthy. This reached the proper office January 3rd, 1825, and an answer came three days later that no direction could be given, but that all that was necessary or ever had been for his discharge was to give the security required by the Act 39 and 40, Geo. III. (39)

Continuing in the House of Correction, he kept an eye on the proceedings in Parliament; we find him, March 17th, 1825, reproaching Hume and the same day offering assistance to Alexander Baring. (40) Hume answers in a spirited letter telling Gourlay: "Wull to Coupar, Maun to Coupar," and that he, Gourlay, himself preferred and chose the abode of felons rather than take his advice. (41) Gourlay answered April 16th and 26th in an apologetic tone (the only instance of such a thing on record) (42), and considerable correspondence of no great consequence followed, resulting in Hume, May 3rd, 1825, presenting a petition from Gourlay against the "Canada Bill" (43), i.e., the Bill authorising sale of land in Upper Canada to the Canadian Company.

Previously and on April 25th, 1825, a petition had been presented for him on familiar lines. (44) May 31st John Williams presented a petition from Gourlay concerning his lawsuits and the delays in Chancery, which will be mentioned later. (45)

His petition of May 3rd is referred to in another petition along the same lines presented in the House of Lords by the Lord Chancellor June 13th. (46) Another was presented in the Commons by Stuart Wortley June 16th, 1825, on the Poor Law system (47); and during the same month Gourlay tried hard to get some member to present a petition for the improvement of London. (48) In this he seems to have failed; but we shall see that in his after life he recurred to plans for the improvement of cities.

October 20th he wrote a letter to the King urging him not to permit the sale of lands in Upper Canada to the Canada Company, of course without avail.

July 2nd, 1827, Hume presented a petition from Gourlay still in Cold-bath Fields prison and stated that his case was hard, that he had been accused of madness and only wanted an opportunity of having that put to a test by means of a Commission. Brougham said he always thought Gourlay to be mad and now more than ever; that he had had nothing to do with the imprisonment, and the prisoner could be released on offering the stipulated amount of security; he had been bred a gentleman but had permitted himself to fall so low as to be a parish pauper in Wiltshire and to break stones on the road for a sustenance; the law was the accuser and required securities for good behaviour. Lord Palmerston and Pereeval both thought the refusal to permit bail to be given for him showed something very like mental aberration.

After this we find no more petitions from Gourlay or on his behalf; he seems to have despaired of obtaining relief in an extrajudicial way and to have lost hope of putting someone in the wrong. It does not appear precisely when or how he obtained his release from the House of Correction, but as it is almost certain that he would have recorded the fact if he was released without following the prescribed course, it may be safely assumed that he at last allowed himself to be bailed out. It is not impossible that the death of his mother, August 10th, 1827 (50), had something to do with this concession to common sense.

At all events having been "confined by British tyranny, in London, three years and eight months" (51), he was set free apparently in February or March, 1828. (52)

He had as early as January, 1825, determined to set up as a Colonial Land Agent, and when he came out of prison he had cards printed as such in London, embellished with his family arm and motto, "*Profunda aernit*," (53) but business connected with his litigation drew him to Scotland. (54)

He did not fail to keep his project for colonizing Upper Canada before the authorities. We find him writing Sir George Murray on the subject July 1st and November 25th, 1828, and again September 25th, 1829. (55) He also wrote the King and the Duke of Wellington along the same lines; he visited St. Andrew's (which he calls "*Alma Mater*"), Leith, etc. (56)

He had as early as April, 1827, written to some fifty clergymen in Fife on plans for emigration; in March, 1828, he began in Fife to form emigration societies, and in two months had instituted seventeen; but he found it impossible to keep them together without repeated explanation and personal attendance, and accordingly he suspended operations. He published "Purposes of Emigration Societies Union and Agency," and sent copies for publication (September, 1828), to the Colonial Advocate, published by William Lyon Mackenzie at York (Toronto); and to the Kingston Herald for publication. It appeared in the Advocate, but apparently not in the Herald. The scheme came to nothing. The same may be said of his project begun by an address to the People of New York State (January 10th, 1827), asking for \$500.00, contributed by 50,000 subscribers of one cent each. On receiving the sum he would cross the Atlantic and endeavour to establish a grand system of emigration from Europe to America; he might even cross to Upper Canada, though the Government might hang him as legally as they imprisoned and banished him. But even letters to General Jackson, to whom he said, "there was a time when no man disliked you more than I did," were of no avail. (57) In 1829 he presented plans for the improvement of Edinburgh, and in the same year first gave utterance to his favorite apothegm "Man is a recording animal." In 1831 he published in Scotland a pamphlet containing his New York scheme (58); the following year he printed a Record of his private affairs. (59)

In December, 1830, the death of Dr. Coventry, Professor of Agriculture in the University of Edinburgh from the foundation of the chair nearly forty years before, was announced. Gourlay had, as he says, been a constant student in the House of Correction, and considered himself well qualified for the position. He had, indeed, hoped to become Professor in Agriculture in the London University, but that chair was not established. He applied for the position in Edinburgh and obtained testimonials from fellow-students in the University and others of high standing; but the appointment was made in favour of another. Gourlay had applied "thinking there might be a comparative trial before actual cultivators"; but that is not the way professors even of agriculture are chosen. (60)

It now will be necessary to say something of the financial troubles Gourlay had to endure from litigation.

Mention has already been made of the Chancery proceedings he was forced to take against the Duke of Somerset to compel the delivery of a lease which Gourlay had himself foolishly declined to sign—also of the verdict for damages in his favour and the unfortunate disposition of his lease and stock.

The decree for a lease having been made and the matter referred to a Master, the Duke appealed from the decree of the Master of the Rolls granting Gourlay damages for £1,325, and Gourlay, being without means, suffered his household furniture to be sold to provide money for the costs of this appeal. The case came on for argument before the

Chancellor in 1821. The Duke did not appear, because he understood negotiations were going on for a settlement. In fact, Gourlay had requested that some of his principal creditors should take up the matter and arrange a settlement, and some attempt was made, but in vain. The Duke's appeal was reinstated on payment of £10 costs, and it came on again in 1823. Gourlay argued his own case; he assailed the Duchess of Somerset, charged that she was at the bottom of the trouble, and that she "wore the breeches." He seems to have had much ground for this accusation, but it was hardly consistent with the decorum of the Court of Lord Eldon. The Chancellor rebuked him, and punished him by refusing costs when in January, 1824, he dismissed the Duke's appeal. Gourlay, had it not been for ill-health, would have followed up his purpose of petitioning for the Chancellor's removal from office—and told the Chancellor so in writing.

The Duke at once gave notice of an appeal to the House of Lords; but failed there also.

Gourlay rather intimates that had he known that the Duke would appeal from the decree in Gourlay's favour, he would have appealed from that which denied him the damages awarded in the other issue; but he did nothing in the matter. He did, however, petition for a reform of the Court of Chancery.

In the Scottish Courts an action was taken against him by his brother-in-law, "Thomas Henderson, farmer of Newton Wemyss," on the marriage settlement made by the elder Gourlay, it being claimed that Robert Gourlay was his guarantor. This was won by Gourlay in the Scottish Courts and in the House of Lords. Then Henderson in 1825 sued as representing the infants for the appointment of an agent (factor) to manage the fund to the corpus of which the infants were entitled after Gourlay's death. This also failed.

Gourlay probably had, when leaving Canada and for a time after arriving in England, the intention of appealing to the Courts for redress for his imprisonment in Canada, being confident that his view of the Statute of 1804 was correct; but he soon abandoned that idea. Mr. Richardson, solicitor, Fludyer Street, London, was employed to prepare a petition to the King in Council, and authorized to consult counsel; the counsel, Mr. Adam, is said by Gourlay to have misunderstood the purpose for which he was consulted; at all events he gave an opinion against Gourlay's interpretation of the Act; for which he was duly flagellated. (61)

Notwithstanding his embarrassed financial condition, we find Gourlay writing letters to the King from time to time. (62)

William Lyon Mackenzie, who Gourlay said "sprung out of me," and whom he later called the "self-styled Patriot, Hero of Navy Island and Prince of Mischief-makers," was countenanced by Gourlay for three years, 1829-1832, but was then dropped as Gourlay thought he had no stability. In July, 1832, Mackenzie was in London and wrote Gourlay;

Gourlay replied from Leith asking him to come "for a crack"; Mackenzie visited him in the spring of 1833 and invited him to return to Upper Canada, saying the people there would pay him. Gourlay replied that they must first settle the old account or he would cut all their throats; this language, he says, was used simply to express disgust with their political doings. (63)

The financial troubles continued and his son Oliver returned to Scotland to help his father to unravel them. (64) Gourlay had him consult his sisters and advise, but there was no success. At last it was decided that Gourlay should go out to New York, send thence a Power of Attorney for settlement of the debts he "could not personally get quit of," and then the son and two of his sisters join the father in New York. (65) He left Edinburgh November 5th, 1833, by canal boat; arriving at Glasgow next morning, he sailed by steamer to Greenock, thence by S.S. Vulcan to Liverpool, arriving there on the second day after a violent passage. November 9th, he took the packet Pacific (Captain Wait) for New York, landing there December 22nd. (66)

## CHAPTER VI.

### Applications to Governor and Parliament.

He sent ashore by the Pilot to a friend and agent, Mr. Gray, a notice to creditors to be inserted in the Edinburgh, Glasgow and Leith Advertiser:

"Pacific at Sea, November 9th, 1833.

"Notice to creditors. I hereby intimate that I have sailed for America not to evade payment of debts, but that all may be paid in full for which funds are more than sufficient.

"Witness my hand     Robt. Gourlay, late of Leith and  
   subject to the King.  
   now     Robt. Fleming Gourlay of the Ocean  
   and subject to Neptune."

The middle name was adopted in honour of his mother, whose maiden name it was. (67)

A few days after his arrival in New York he received letters from two persons, one threatening him should he enter the Province, the other inviting him warmly. The latter was from Mackenzie; Gourlay replied in "an exceedingly coarse epistle which I bade him publish in his newspaper." (68)

"To put an end at once to expectation and alarm," he wrote February 26th, 1834, a notice and sent it to Governor Sir John Colborne, the Attorney-General of Upper Canada, the Colonial Minister and the Attorney-General of England; it was also formally handed to the British Consul at New York to send to the Ambassador at Washington as "in fact, it involves a question of vast magnitude to native-born British subjects should the United States go to war with England." The notice sets out that his imprisonment was illegal, and "that I shall think myself justified at any time to enter the Province, there by force of arms to regain my property, maintain my rights and avenge my wrongs." He sent a copy to Sergeant Spankie to show to Earl Grey and any other member of the British Cabinet, but declared at the same time that he was perfectly true to the King. (69)

If he desired Canadians to believe that he was quite sane, he could take no means less adapted to this end than the publication of such a threat; it sounds like the declaration of war by an outraged monarch rather than a claim of right by a law-abiding subject.

He seems to have remained in New York for some time; we find him February 23rd, 1835, sending a letter to the King. In this he recounts his grievances; says that he has hitherto failed to reach the

King's ear because it was engaged by a man whom he "knew to be false, treacherous and vindictive"—this was, of course, Brougham—but now as that individual no longer influenced His Majesty's Councils he once more solicited attention. This letter was sent to his daughter in Scotland with instructions to copy it and send it under cover to the Duke of Wellington with a note to him asking him to lay it before the King. He sent with it a letter March 7th, 1835, to the Duke asking justice; a subsequent letter was sent April 2nd recommending the Duke to advise the King to visit the British American Colonies and the United States, and "to lodge in the very house which the Duke of Clarence occupied fifty-five years ago." In May and June he sent other letters to the Duke—it is hard to see why.

While residing in New York, he in July, 1835, laid before the Board of Aldermen an elaborate scheme accompanied by drawings for the improvement of the city; he returned to this in 1842 when in the city. Some account of his scheme will be given at a later stage. He also in 1835 drew up a petition to the King asking enquiry into his case, and wrote the Duke of Wellington several letters on reform of the Poor Laws, etc., etc.; he recommended the Duke to advise the King to visit British North America and the United States, etc., etc. No answers were received so he printed in New York in that year the petition (and the letter he had sent his daughter to copy and forward it) and letters, and it was again printed in 1836 at Cleveland, Ohio. (70)

After eighteen months' residence in New York no progress was made in the settlement of his affairs, and he sought new scenes. In the second half of 1835, Gourlay made his way to Ohio, settling at the village of Willoughby, Cuyahoga County, about August of that year. (71) He formed a project of drawing up an account of the Township, Historical, Topographical and Statistical, for publication; he went further and endeavoured to get the Governor, Robert Lucas, and the Legislature to assist in the publication of a statistical account of Ohio which he was to draw up. His larger project does not seem to have received any encouragement; but a meeting of the inhabitants of the Township of Willoughby (two meetings were held, August 20th and December 10th, 1836) passed a resolution approving of a survey and map of the Township on Gourlay's lines. (72)

But amid all his projects he never forgot Upper Canada. December 22nd, 1835, writing from Ohio, he sent across the line the following:

"Monsters!

"Mr. Clark will show this to the inhabitants of Niagara District, and Mr. Mackenzie may publish the duplicate to all the world. Mr. W. Chisholm and Mr. Paul Peterson shall have copies to exhibit in the Gore and Midland Districts. Postages will be paid on demand by the Great Bear of London District, or by the writer.

"Robt. F. Gourlay."

He in the following February sent a copy of this to Mr. Smart to send to the Speaker of the Legislative Assembly for exhibition in the House.

This cryptic message received no interpretation from Gourlay till years after, when he explained that "Monsters" while "it could not hurt or offend anybody," was intended to mark his feelings on offering his services as Statist to a foreign country after his own had been regardless of him. "The Great Bear of London District" had reference to his banishment from his land in that district. (74) Quite naturally "this was deemed an act of insanity" in the Province (75) as he himself says.

Hearing that Sir Francis Bond Head had arrived in New York on his way to Upper Canada as Governor, Gourlay sent him a copy of the testimonials he had obtained when applying for the Chair of Agriculture in the University of Edinburgh in 1831 (which he had reprinted in Cleveland in 1836), and also a printed copy of his letters to the King, the Duke of Wellington and Miss Gourlay. He offered to go either with or without Canadian Commissioners to England and explain his "grand system of emigration."

Sir Francis thanked him courteously, but nothing came of the proposition. (76)

Gourlay also sent to the Governor after his (the Governor's) arrival at Toronto (i.e., in March, 1836) a memorial he drew up for presentation to the Legislative Assembly. He sets out his own ill-treatment, and claims that every step taken against him was oppressive and barbarous, though nothing but zeal for public good actuated him throughout. He does not ask for any relief but saying that public affairs are causing trouble both in Lower and in Upper Canada, he recommends Commissioners being sent to England to have the competent authorities grant free and fair enquiry into every cause of evil. This was practically ignored; Sir Francis gave it to the Speaker; the Speaker handed it to Peter Perry, and he presented it April 27th, 1836; but he with other Radicals were engaged in a constitutional struggle with the Governor and had no time for less important matters. (77)

He kept up a correspondence with Sir Francis, sending him copies of letters concerning his private affairs, letters to his daughters, etc., but at length left off a barren correspondence in July, 1836. There is nothing of consequence in his letters; and it seems certain that he was looked upon as a "crank."

He crossed the river at Sandwich, September 17th, 1836, called on his old friend, Mr. Charles Asken, and was instantly recognized. He remained at Mr. Asken's for three days, being recognized by many and treated with much kindness. Hearing that Col. Prince had been elected member for the District, he called at his house near Sandwich but failed to find him at home; he left for him a memorandum respecting Emigration Societies, and "for the first time" wrote "The Banished Briton, Mediator and Appellant, Profunda Cernit" (his family motto). Therefore he had been a banished Briton, thereafter he was always "The Banished Briton." (78)

The day of his arrival on Canadian soil he wrote Head a protest against the barbarous and oppressive treatment he had received in 1818 and 1819; and did not fail to send also a private letter which he had received from his son.

From Sandwich he went to Chatham, and there to Talbot Street. He had "designed to make a progress from one end of the Province to the other," but from the newspapers he found that party rancour was **raging and therefore** thought it prudent to pull up "satisfied that all parties are kind and respectful to myself." He turned westward to Malden (Amherstburgh) and back to Sandwich. October 12th he crossed to Detroit and sailed for Ohio, intending to get his trunk and go to Toronto. In Cleveland he had a pamphlet printed containing the correspondence with the Duke of Wellington, Sir Francis Bond Head and the Governor of Ohio <sup>(79)</sup>; and with that he went on board a schooner to cross Lake Erie; but accident prevented his sailing, so he added to his pamphlet and determined to wait for sleighing so as to go to Toronto by way of Buffalo.

In January, 1837, he was suddenly stricken with erysipelas in the leg at a tavern at Willoughby, and could not be moved till the middle of April. He made the best of circumstances during the summer; he was short of money and his remittances from Scotland did not come promptly; accordingly he could do no other than fix himself in Cleveland for the winter. <sup>(80)</sup>

The Rebellion broke out in December, 1837; Mackenzie fled to Buffalo and afterwards with his Generals and troops took possession of Navy Island. Some Upper Canadians, among them the editor of the St. Thomas Liberal, charged Gourlay with being engaged in raising volunteers to assist the Rebels—Gourlay as loyal a man as ever breathed, first, last and all the time. Not only did he take part in opposing the "Patriot" movement in Cleveland, but he sent Sir Francis valuable information as to the movements of American "Sympathisers." <sup>(81)</sup> Written to in Mackenzie's name (Mackenzie repudiated the letter) to assist the insurgents on Navy Island, he refused, rating Mackenzie in no measured terms; he also expostulated with General Van Rensselaer for joining such a movement. He had already, when in New York in June, 1834, written Joseph Hume a strong letter of rebuke for his notorious letter to Mackenzie in which occurs the passage "baneful domination of the mother country."

Sir Francis being succeeded in his Government by Sir George Arthur, Gourlay in April, 1838—he was then living at Cleveland—attempted to carry on a correspondence with the new Governor; his letter was not answered, and no better fate awaited a copy sent three weeks later. <sup>(82)</sup> This letter is mainly an exculpation of General Scott from the charges of Head, and regrets for the burning of the Caroline, which he says "fired all ranks of Americans and abashed old countrymen"—"far happier results might have followed a contrary course."

In August Gourlay was staying with his friend Judge McDonell at Point Fortune on the Ottawa River when Sir George came to embark there on board a steamer. Gourlay asked him why he had not even acknowledged receipt of the letter. He answered "there were difficulties." With that enigmatical answer Gourlay had to be satisfied. (83)

In October, 1837, he had sent an address to Queen Victoria saying that his object had been to make Upper Canada an asylum for the poor of England, and that he was about to visit the Province to counsel peace; of this he sent a copy to Sir Francis Bond Head to lay before the Legislative Assembly. This he in May, 1838, sent to Lord Durham on his appointment to Canada; his repeated letters received no attention. This neglect astonished Gourlay, because Durham was son-in-law of Earl Grey and had had a quarrel with Brougham. Gourlay never freed himself from the conviction that Brougham was a malignant enemy who constantly plotted his ruin; and he accordingly thought that an enemy of Brougham's must be a friend of his.

Not receiving any answer from Lord Durham, he decided to visit the Western District; but at Cleveland, on his way to Detroit, he learned that Durham was at the Falls, and went there to obtain a personal interview. But by the time he arrived at Niagara Falls, Durham had left for the Lower Province. Consoling himself by writing a lampoon on the "Durham Ox" (84), he again wrote His Excellency. He went on to Montreal, where he again wrote, and at length caught up to the Governor at Quebec. He was told that it would be quite impossible to see the Governor but that all his papers would be laid before him. Then, being again very ill—he was taken sick in Montreal—he went to Caledonia Springs, from which place he again wrote, and sent the third number of "The Banished Briton." He never got an audience with Lord Durham (although he had gone seven hundred miles to see him) "for fear of Brougham." (85)

He published all his correspondence with Durham in the St. Catharines Journal during the winter of 1838-1839; and, hearing that Durham had expressed a desire to have a delegate appointed from the St. Catharines District to back his proposals for the good of the Province, Gourlay took steps to have such a delegate appointed.

January 10th, 1839, Gourlay issued at St. Catharines another "Address to the Resident Land Owners of Upper Canada," detailing his wrongs, the bad condition of the Province and its institutions, canals, railways, education, the church. Of the church, he says "the church itself wholly militant. Episcopalians maintaining what can never be established. Presbyterians more sour than ever, contending for right where they have none whatever. Methodists so disunited that they cannot even join in a respectable groan; and Catholic Priests wandering about in poverty because their scattered and starving flocks yield not sufficient wool for the shears." He asks what is to be done, and answers his own question: "I cannot go far or speak to many, but there is a meeting house within fifty miles of my bed, and I can be carried to that. Let the people of the Township of Grantham meet me there by two

o'clock next Monday, and I will tell them all that is necessary. They can repeat it to others, and the Province may even yet become the most enviable spot on the habitable globe." He sent out an advertisement for this meeting headed "For God, The Queen, The People."

A meeting was held, and another by the inhabitants of Thorold at Allanburg the following month. Gourlay attended, and the meetings resolved to send petitions across to the old land, asking for Commissioners to come out to Canada. The delegate scheme was dropped; Gourlay's health would not permit his further agitation.

Durham's Report came out. Gourlay upheld it against the violent criticism it received from the Assembly and in an "idiotic presentment of a Grand Jury of Newcastle District"—the characterization is not too strong. He advocated meetings throughout the Townships, came to Toronto and urged these meetings emphatically, but his wretched health again prevented much active participation in the movement.

When at the meeting at Allanburg, February 4th, 1839, he met an old friend, Major Secord, of St. David's. Invited to the Major's house, he was taken down with erysipelas and could not be moved for a month. Many kind friends visited him; one of these, Richard Woodruff, a member of the Legislature, Gourlay asked to present to the Assembly a letter for him, and he agreed to do so.

Gourlay thereupon prepared a fresh memorial to the Assembly, setting out his grievances and asking that a Commission or Committee might be appointed to investigate on the spot all the circumstances of the barbarous affair. Getting better, he was removed to Queenston, whence he removed to Niagara on hearing that a committee had been appointed by the House. He there waited week after week, expecting the committee to wait on him; but after four weeks he received a letter from Mr. Woodruff with the Committee's report, "investigating nothing." There had been a misunderstanding; the memorial had been presented and a committee appointed consisting of Messieurs Thorburn and McMicking. The committee reported, "waiving the legality of the judicial proceeding . . . however far he might have deviated from the law of the land . . . your Honourable House would render an act of justice to the Petitioner by addressing His Excellency . . . humbly requesting His Excellency to use the prerogative of the Crown to enable the said Robert F. Gourlay to return and reside in the Province if he shall think fit to do so." This was the report which Gourlay received waiting in Niagara, and it was quite different from what he desired and expected, "the said Robert having felt assured in the years 1836-7 that had he deemed it necessary he could have taken 'this Province' from 'His Excellency' backed by the House of Assembly with its Speaker commanding." That Gourlay did so think there can be not the least doubt, and as little that his belief was grotesquely absurd.

He first thought of writing and correcting the error, but on consideration, fearing that the pardon might be gazetted, he determined to go to the scene of action; accordingly he set sail by steamboat for Toronto.

Before he arrived in Toronto the Comedy of Errors had advanced a scene or two.

The report having been presented by Woodruff to the House, April 25th, the House went into Committee of the Whole, April 29th, Mr. Merritt in the Chair, and there after a seven hours' acrimonious debate adopted the report. On motion by Thorburn, seconded by Woodruff, that the report be adopted, an amendment was moved that an address should be presented asking for a pardon for Gourlay. This was lost, 16 to 26. Another amendment was moved that Gourlay should lay his case before the Lieutenant-Governor before any proceedings should be taken in the House. This was lost by the casting vote of the Speaker. A third amendment that he should have an unconditional pardon was negatived by a vote of 18 to 25; and the original question carried by 23 to 20.

A committee appointed to draft a report presented their draft the same day; it received its first reading and was set for the second reading on the morrow.

Before the House sat again Gourlay arrived in Toronto and was told what had been done. His friends were jubilant at their success, but Gourlay, while he thanked Woodruff for his good intentions "informed him of the woeful blundering." He drew up a memorial asking to be heard at the bar of the House, and asked that it should be presented. This his friends of the Assembly deprecated; it would "put us all in the wrong." "But," said I, 'you are in the wrong and your errors have cruelly wronged me; do let me appear at the bar to correct them.'" The members were inexorable, and the petition was not presented.

But as he had consoled himself on his failure to see Lord Durham at Niagara Falls by writing "The Durham Ox"; so now he got comfort in writing "Monkey War, Part First."<sup>(86)</sup> He then sent to each member a copy of the "Banished Briton," printed at Cleveland in 1836, containing his "Declaration of War."

He went to the House, and, hearing his name mentioned in debate, was told that the Address to His Excellency was being passed. He "could not jump on the floor and take the blockheads by the throat"; he remembered that he "had got three years and eight months imprisonment in London for the mildest breach of privilege ever perpetrated"; so he sat still, and then went to his hotel, "The Edinburgh Castle Tavern," and wrote a new petition. This was May 6th. On May 4th, on motion of Col. Prince, of Sandwich, the address was amended, and on May 6th it was read the third time and passed. This asked that the Governor should "be pleased to exercise the Royal Prerogative in annulling the sentence of the law passed upon Robert F. Gourlay, banishing him for life; so enabling him to make his permanent domicile in this Province as a true and loyal subject of Her Majesty, should he think fit to solicit the same."

Gourlay was, of course, wholly dissatisfied with this disposition of his case. His new petition set out that he would consider any pardon or favour from the Governor derogatory to his honour, and earnestly entreated that he might be heard at the bar of the House.

Back again to the House he went, laid hold of his old friend Elias More, and demanded that he should present the petition. More took the petition, but returned with it in half an hour, said it burned his fingers, and all Gourlay's friends in the House were opposed to presenting it. "Mr. Merritt, Col. Chisholm, Mr. Cameron—no, not one would hand in the protest against injustice." Gourlay accosted Sir Allan MacNab, the Speaker, before he took the chair; and, MacNab acknowledging that the Address had passed for a pardon, Gourlay said: "Then remember that I returned to the Province with this stick in my hand, and if you do outrage common sense, I may yet knock you down with it."

This done, he ran off to a printing office, had a placard printed headed "Protest," with his two petitions in parallel columns, and ending with the capitalized "Strike But Hear." A copy was sent to Sir George Arthur, Lieutenant-Governor, and many were posted up on the walls. Gourlay ends his account of this episode thus: "Asses all! grossly ignorant and wilfully unjust." (86)

One would have thought that he achieved a substantial triumph; but it was not in the way he desired; no one was put in the wrong and his vindication was not preceded by an examination of and an oration by himself.

We shall see that when at length he achieved the great object of his ambition and was allowed to address the House, his speech was a dismal failure.

Gourlay's conduct on this occasion did much to confirm a growing impression that he was if not deranged at least "cracked."

He remained during the summer of 1839 most of the time at Queenston, occasionally visiting friends. An incident which occurred during the autumn of this year showed Gourlay that he was not safe everywhere in the Province; this was when he was on his way to a meeting at Beamsville.

He was then living at Queenston; driving September 10th with Dr. Woolverton, of Grimsby, about two miles from that village on the mountain, he was informed that the proprietor of an adjoining farm was a brother Scot, Andrew Muir by name. Gourlay desired an introduction to his countryman, but as soon as Muir heard his name he rushed at him, struck him violently and would have seriously injured him but that the Doctor whipped up his horse. Muir then picked up a large stone and threw it with fury toward the carriage, fortunately without hitting anyone. Gourlay attempted to lay an information before Robert Nelles, J.P., and Henry Nelles, J.P., but both these gentlemen were from home; he then went to the Court of Oyer and Terminer, then in session at

Niagara; the Grand Jury advised him to go before a Magistrate, but on consideration he urged the Grand Jury to act, and asked the Crown Counsel, Sir Allan MacNab, to call upon them to act. At last the Grand Jury found a presentment against Muir, but the sittings were about their close and it was not proceeded upon. He then laid an information before Henry Mittleberger, William Hamilton Merritt and George Rykert, J. Ps. Muir was arrested and held to heavy bail for the ensuing Assizes. Gourlay complained, January, 1840, to the new Governor, Poulett Thompson (afterward Lord Sydenham); he could do nothing and Gourlay wrote an account of the matter to his friend, Sir John Campbell (afterwards Lord Chancellor Campbell). Soon more important matters demanded Gourlay's attention and Muir was forgotten.

It may perhaps be well to mention here an incident which took place earlier in the year. Having printed in the "Reporter" of April 15th, 1839, his petition to the Legislature, he wished to have support for it, and invited his friends to meet at the British Hotel, Niagara, for that purpose; the better to attract public attention he bought three large pasteboards, fastened to them a placard "The Banished Briton, Appellant and Mediator, Profunda Cernit," and added his intention to investigate the evils convulsing British America, etc., etc. One of these boards he placed at Harrington's, another at the British Hotel, and the third at James Miller's Tavern. That at Miller's disappeared, and Miller said he had destroyed it; Gourlay sued him for 10/6 for "a placard and board destroyed." On the day appointed for the hearing, Gourlay appeared with his witnesses, Miller with his lawyer, a Mr. Campbell. Campbell contended that the placard was seditious, but judgment was directed for the plaintiff. Then the placard was produced and Gourlay went off with it and "there will be no charges" said Mr. Clement, J.P. Gourlay immortalizes Miller as of the grossest ignorance, and does not forget to expose the ignorance of the lawyer and the magistrate as well as to glorify his own knowledge of law. (87)

Incidents such as these show that the reputation as a Radical which Gourlay had achieved, albeit involuntarily and almost factitiously, clung to him; and that notwithstanding his staunch loyalty and his unwearied exertions against the "Patriot" cause, he was by some classes identified with Mackenzie, whom he despised and for whom he nourished a feeling of the most contemptuous indignation.

This phase may be closed with the explanation he afterwards gave of his placard: "the words 'Banished Briton' were intended to attract attention to the monstrous treatment I had received at Niagara, that the word 'Appellant' announced my return to the Province, here to get redress; and the word 'Mediator,' my coming as a peacemaker. . . . As to Government, there was not in existence any man who had been more constantly loyal, and . . . my family motto, 'Profunda Cernit' was set forth on the placard to maintain this." (88)

The common people had no clue to the interpretation of his dark sayings, and even with the belated explanation many will fail to understand how "Profunda Cernit" vouches for loyalty. In too many cases

while it is possible Gourlay *profunda cernit*, it is quite certain that he overlooked *superficialia*.

In September of this year (1839), he had a record of the memorials, the proceedings in the Assembly and his placard "along with articles declaring his opinions and maintaining his right as a British Subject in Upper Canada," printed at Buffalo under the name of the "Banished Briton." (89)

January 16th, 1840, then residing at St. Catharines and in indifferent health, he made the appeal (already mentioned) to the Governor, Charles Poulett Thompson (afterward Lord Sydenham) in respect of the neglect by Magistrates, Grand Jury and Crown Counsel of his complaint against Muir; but as we have seen without effect (90), except that the receipt of his letter was acknowledged. Gratified by even that courtesy he was on the point of leaving for Toronto to wait on His Excellency when ill-health prevented. But in the early part of February he made his way by stage coach to Toronto to his favourite stopping-place, The Edinburgh Castle Tavern, and thence, on Monday, February 3rd, sent a letter to the Governor asking for an interview. No attention was paid to this request. His ailment increased and he betook himself to bed. He got a friend to mail a duplicate of his letter Thursday morning; "Friday afternoon being assured of neglect and not choosing to be put aside in silence," he "crawled out to the nearest printing office and engaged for printing 'The Banished Briton, No. 3'" . . . "arranged newspaper slips, my letter to the Queen" (of October 13th, 1837), "correspondence with Sir F. B. Head and Mr. Thompson. To add zest to it" he "stuck in verses written at two different times, first on coming to Toronto, May, 1839, and now February, 1840, for publication in the British Colonist, and signed 'Fifcan,' " his "native county."

"The Banished Briton" was printed just in time to have a hundred copies sent around Saturday evening among the boarding houses and public offices. About 2 p.m., February 11th, he received a note dated February 8th from the Governor's secretary, saying that the Governor could not give him an appointment, but would be happy to consider any communication from him; he at once added this letter to "The Banished Briton" with his own comments, and had five hundred copies struck off and offered for sale at one penny. The comments are characteristic; "villainy has been at work against me ever since the departure of Sir F. B. Head"; "the red-tapists had given . . . no thought" to his letters; "what had half the effect in cooling down the fever in the Province as my letter to Mackenzie?" "I must be at the mercy of" the Governor's "paltry clerk whose letter before us is a tissue of shuffling and palpable deceit." (91)

In September, 1840, we find Gourlay travelling from St. Catharines to New York "in stages, steamboats and railcars, talking much and continually excited with various scenes and occurrences." (92) It was in the spring of the following year that he built a log house on his property in Dereham. This he occupied until the House met in Kingston in 1841, when he made his way to that place.

On July 28th, 1841, he caused to be presented a formidable petition to the House of Commons of the United Canadas, by the hand of Mr. Merritt, M.P.P. It contained his memorial of 1836 (which had fallen flat), that of 1839 (which had had such an unexpected and undesired result), the Report thereon and his Protest. He attached a copy of "The Banished Briton," printed at Buffalo, September, 1839 (containing an account of the proceedings in 1839, "along with articles declaring his opinions and maintaining his rights")—and prayed that "all may be seriously considered . . . and that the wisdom of United Canada may do him that justice **which has been so long and so cruelly denied.**" (93) He did not just this time make the mistake he had made two years before by leaving the conduct of this petition wholly in the hands of his friends; he was present in Kingston and took an active part in directing proceedings.

Read July 30th, the petition was, August 26th, on motion of Dr. Dunlop, referred to a committee composed of Dr. Dunlop, (Hon. Mr.) Viger, (Hon. John) Neilson, (Mr.) Price, and (Captain) Steele "to examine the contents thereof and to report thereon." The committee, with Dunlop as chairman, examined witnesses—Messrs. Merritt, Thompson and Thorburn, M.P.P.'s. All thought Gourlay loyal and honourable and his projects beneficial; all were present at his trial at Niagara in 1819 and thought "his speech incoherent and his appearance that of one not in self-possession" (none speaks of the traditional outburst of maniacal laughter); and Mr. Merritt thought "he was treated throughout with the greatest cruelty and injustice." Some affidavits were also obtained.

The Committee reported, September 11th; Gourlay's projects are fairly detailed, his trials at Kingston and Brockville, his treatment at Niagara. The Report expresses the "opinion that the arrest and imprisonment of the petitioner in Niagara in 1819 was illegal, unconstitutional and without the possibility of excuse or palliation; that debarring him from an interview with his friends or his counsel was also illegal, unjust and unconstitutional; . . . that his trial and sentence when in a state of bodily and mental weakness . . . which prevented him from defending himself was unjust, unconstitutional and cruel." The Report recommended "that the Crown may repudiate the transaction by which the petitioner has been persecuted to his ruin and that the Legislature may declare his sentence of banishment null and void and cause him to be compensated for the losses he has sustained by the unwarrantable exercise of authority. In the meantime that some allowance be made to him to defray his personal expenses while in attendance before the Legislature defending the rights of a British Subject." The Report was adopted.

On September 16th, the last day of the session, Dr. Dunlop in a vigorous speech in which he defended and gloried in the language of the Report (which he proudly acknowledged having drawn up), moved a resolution which on being seconded by Mr. Aylwin was unanimously adopted.

"Resolved that a humble address be presented to His Excellency, the Governor-General, communicating a copy of the Report of a Select Committee of the House, in the case of Robert F. Gourlay, Esq., and praying that measures may be taken for carrying the recommendations contained therein into effect." (94)

The same day this address was presented to and graciously received by Lord Sydenham. The next day but one, Sunday, September 19th, the Governor died from the effect of an injury received when his horse fell with him fifteen days before. Gourlay wrote for the Kingston Herald an editorial speaking of the deceased Governor in the highest terms (95); and he more than once thereafter wrote of this Governor with praise for his business capacity and sense of justice.

The very handsome conduct of the first House of Assembly of the new and United Canada satisfied even Gourlay; he thought all his vexations in that quarter ended and that he would soon rejoin his family in Scotland. (96) Anxious to leave for the old land he, October 11th, wrote Sir Richard Jackson, the Administrator, asking him what he had to expect from the Executive. After some correspondence he was informed that £50 will be advanced him out of the small sum at the Administrator's disposal; this would enable him to proceed to Quebec and meet the incoming Governor. The sum was paid, and after receiving office copies of most of the proceedings, Gourlay went to Quebec on the same boat with the Administrator. On the steamboat from Kingston to Montreal, Gourlay sent to Sir Richard a sketch of improvements which he proposed to be made in Kingston, accompanied by a map. In a few minutes a gentleman waited on him with a map in his hand, and told him that Sir Richard would examine it at Montreal—"it was somewhat amusing to observe that His Excellency from that moment . . . kept himself more retired from passengers." (97)

The arrival of Sir Charles Bagot was delayed, and Gourlay kept up a lively correspondence with the Administrator, calling for the missing documents and also for a decision by the Executive as to what he was to receive. He made his way back to Kingston, and there at last, on December 15th, he was furnished with a Report, dated December 10th, approved December 13th, of the Executive Council in his case, which dashed all his hopes.

This Report is written with great ability (as has already been said Hon. R. B. Sullivan is said to have been the author, and it is worthy even of him). It recites the Act of 1804 and the proceedings taken under it against Gourlay but without passing upon the advisability of the legislation or prosecution. It shows that both were legal and points out that "Mr. Gourlay suffered for direct disobedience to the law as it stood; he could not legally have been acquitted by any jury for such disobedience." Referring to the request that the Government should repudiate the transaction, it was said "no regret that such a law should have existed or that it should have been used with severity against him and no commiseration for his sufferings will authorize the admission of the dangerous and destructive principle that individuals are to judge for themselves and with impunity act in defiance of the positive law of the land."

So far as immunity from the effect of the conviction was concerned, Gourlay might at any time have had a pardon, and that might be given him then if desired.

Any indemnity must first be brought by the Government before the Legislative Assembly; and the Council did not suggest any limitation of the liability of the Assembly by withholding from it the opportunity of granting any reasonable sum of money to Mr. Gourlay. "But," the Report concludes, "it would be unjust to him were he to be permitted to remain under the impression that the Government recognizes the illegality of the sentence pronounced against him or liability of the public funds, to indemnify him as a matter of right, against the consequences of his own deliberate infringement of the law of the Province."

It would be hard for any law-abiding subject to find fault with any part of this Report; and in its calm and judicial statement of undoubted law and constitutionality it affords a striking contrast to the warm, rhetorical and sympathetic address of the Assembly. (98)

This Report put an entirely different face on his project; the proposed journey to Scotland was abandoned, and Gourlay remained in Kingston four months. In October, 1841, the Duke of Wellington coming into power again, Gourlay renews his correspondence with him; he tells him of what the Assembly had done, and hopes that the Duke will cause justice to be done him. He keeps on writing, (it must be said sometimes aimlessly but generally with a view to a Commission of Enquiry being sent out) until August, 1843, but never receives any attention.

After his disappointment in 1842 he moved from place to place in search of health, and by September, 1842, he had again taken up his residence in St. Catharines, "trying the effect of the warm salt water baths." His mother-in-law, "sister of the late Judge Hamilton, of Queenstown," had died in Scotland the preceding May, and his two unmarried daughters, of whom she was the stay since their mother's death, required his protection. But he could not make up his mind to leave Canada without clearing up the situation in the Legislature. He wrote Hon. John Neilson, of Quebec, then at the meeting of Parliament at Kingston, and asked him to bring up his business immediately; he offered to come to Kingston himself if necessary. Neilson advised him to prepare a petition "stating in as few words as possible the fact . . . since the Report" of the preceding year; he did so but added that the proceedings of the Executive Council had "been taken clandestinely by enemies who all along have pursued him at home and abroad through back-stairs' influence and underhand plots"; he hopes that "the darkest machinations may be exposed and your petitioner at last freed from persecution which has no parallel." (99)

This was presented and, although declared by the Speaker to be informal and to contain improper language, was referred to a committee of five, including Neilson and Dr. Dunlop, who reported that in consideration of his losses and misfortunes, Gourlay was entitled to an annuity during his life: an annuity of £50 was recommended by the House and assented to by the Governor, Sir Charles Bagot, October 10th.

Gourlay left St. Catharines on his way to Avon Springs, October 12th, and did not receive the notice of the Governor's intention till November 1st on his return to St. Catharines. He then wrote to Neilson saying that while no doubt Neilson intended to befriend him he must spurn all offerings on the ground of compassion—no insult could be greater than being placed on the Civil list as a pensioner "**in consideration of losses and sufferings.**" He added that he would lose no time in quitting the country where he had been so insulted, and that he would acquaint the world with his reasons. (100)

Gourlay certainly was not mercenary; he had made plain the year before in a letter to Dr. Dunlop that he did not pray for money, though he did claim damages from the Crown for undue exercise of its authority. (101) This curious obsession of a right existing against the Crown—of course wholly without foundation in law—he never got rid of.

His reception of information of what his friends had done for him increased and confirmed the suspicion of his want of perfect sanity; but it was not at all discreditable, rather the reverse, to refuse a grant of money by way of charity.

## CHAPTER VII.

### "Chronicles of Canada," "The Neptunian," etc.

In September of this year he had printed in St. Catharines the first edition of the "Chronicles of Canada" which had some vogue. It contains the address to the Resident Land Owners of Upper Canada of April 2nd, 1818, an account of several Township meetings in that year, the Address to the Worthy Inhabitants of the District of Niagara April 21st, 1818, proposed Address to the Prince Regent, report of the meetings at York of the Upper Canada Convention of the Friends to Inquiry, an account of his trial at Kingston and of the dinner given to him there, and extracts from the proceedings of Parliament with a Recapitulation and Conclusion by Gourlay. (102)

He left St. Catharines early in November, sailing per steamer Transit from Queenston, November 3rd; passing through Toronto, Kingston, Montreal, St. Johns and Troy, he arrived at New York November 16th. Before leaving Queenston he indited a letter to the St. Catharines Journal, attacking Colonel FitzGibbon for not rewarding Mrs. Defield, who had saved him from death or capture in the war of 1812; "while Colonel FitzGibbon had five thousand acres of land granted him for his services in the **Monkey War** and at Gallows Hill." The Colonel replied by a letter to the Journal (and the British Whig, Kingston) saying that he had had four hundred acres of land in the Talbot settlement granted to Mrs. Defield's husband; he also gave the correct account of the occurrence in 1812.

Gourlay writes, January 7th, 1843, from Providence (to which place he had gone from New York), a long letter, returning to the attack, and adding: "Regarding the 'five thousand acres of land' presented or granted to Col. FitzGibbon, let it be known that I was at Toronto when he suddenly disappeared, to the amazement of everybody. Some thought he had decamped with a large amount of Government treasure, others that he had become a defaulter . . . but all were mistaken, for he quietly returned."

This quite gratuitous attack on as honest and valiant a man as ever lived shows what Gourlay considered fair argument, and is excusable only on the ground of ill-health, bodily or mental. This letter was sent to both the St. Catharines Journal and the British Whig, but neither published it, and nothing more was heard of the matter. Later on, in 1843, however, he is convinced that in 1818-19 "this same FitzGibbon, after friendly declarations to me, turned round and led the van of the most wicked conspiracy which was ever got up by governmental power to ruin an individual.

About the same time Gourlay had a newspaper controversy concerning the death of Tecumseh; he also wrote the fable "The Lion and

the Bear" (already spoken of) for the Kingston Chronicle, but the Chronicle refused to publish it—"probably from some misapprehension." (103)

About February, 1843, he removed from Providence to Boston, "and had much enjoyment with improved health, walking in the glorious Common." On February 20th he caused a petition to be presented by Mr. Obed Barney of Nantucket, to the House of Representatives of Massachusetts; this gave his birth, his labours in 1800 and 1801, his coming to this continent in 1817, his banishment from Upper Canada, his petitioning the British Parliament from 1820 to 1827, his recrossing the Atlantic in 1833, and added that the "sole object of the petition" was "to record the facts with a view to after reference." (104) Perhaps no such extraordinary petition was ever sent in to any Parliament or Legislative Body.

In the following month he issued in Boston the first number of "The Neptunian," "an introduction to more, should public patronage be obtained. . . . Number after number to unfold my principles and projects, through a period of forty-two years devoted to the cause of humanity."

This number is styled "The Banished Briton and Neptunian No. 1." It contains his petition to the Legislature, copies of his 1831 testimonials (which had already been reprinted in Cleveland, 1836, as part of "The Banished Briton No. 1") with notes, an address setting out the objects of the journal, a story of his life, and asked that he might have a hearing.

In April No. 2 appeared; the style is now "The Neptunian," and ever after so continued. This contained an address to the People of the United States (rather pointless), his Notice to Creditors of November, 1833, his "declaration of war," correspondence with the Duke of Wellington and petition to the King in 1835, correspondence with Head in 1836-37-38, with Mackenzie in 1838, Sir George Arthur and Lord Durham in 1838, and notes. With No. 2 a new paging begins, which is continuous through the subsequent numbers of "The Neptunian."

No. 3 contains correspondence with Lord Sydenham in 1840; No. 4 the 1836 petition and correspondence concerning it, etc., with notes; No. 5 the petition of 1839 and proceedings thereon; No. 6 that of 1841; No. 7 correspondence with Sir Robert Jackson, the story of the Miller trouble concerning the placard, and the "Monkey War"; No. 8 the petition of 1842.

By this time June had arrived, and Gourlay was about to leave Boston. "As a token of gratitude and usefulness," he desired to leave behind a plan for the improvement of Boston Common, and wrote the Mayor accordingly. This plan, with accompanying illustrations and an account of his insomnia, fill up No. 9 of The Neptunian, issued July, 1843.

No. 10, published in September, contains his article on FitzGibbon, his "Death of Tecumseh" and his fable, "The Lion and the Bear"; No. 11 in October contained his 1841-43 correspondence with the Duke of Wellington, and also a copy of a new petition he intended to present to the Parliament of Canada. This petition, dated from Boston, October 7th, 1843, states that Gourlay had petitioned in 1836, 1838, 1841 and 1842; that "he was wholly neglected by the Commons House of Assembly of Upper Canada the first of these years; greatly wronged by the same House the second of these years; that he was fully satisfied with the award of the Legislative Assembly of Canada the third of these years, and cruelly disappointed with the result of his last application." He asks for "a personal hearing at the bar" of the Houses of Parliament. (105)

A copy of this was sent to the Speaker of the Assembly, another to a member of the Council, a third to the member for Bytown. None of these was presented. Had the petition been presented, it almost certainly would have been quite ineffectual.

No. 12 contains an account of Gourlay's actions in 1818 and his trial at Brockville; No. 13 his troubles with the Kingston Post Office in 1818.

Gourlay now made his way via Springfield, Albany, Syracuse and Oswego, to Kingston, where he arrived November 9th; he sent a circular to all the members of Parliament asking a personal hearing; then he drew up another petition. This set out the address in 1841 and what had been done on it, the petition of 1842 and the misunderstanding about it, and asked (in substance) that the plan of 1841 should be carried out. The petition was presented November 30, and referred to a favourable committee, including Gourlay's friends Neilson, Thorburn and Dunlop; and they recommended that the Report of 1842 should be carried into effect. This was agreed to, and His Excellency approved. Gourlay was notified of this and also that a yearly grant of £50 had been directed in his favour by the preceding Governor-General. He thanked the Governor, but declined the annuity. (106)

Gourlay also sent copies of Nos. 2, 3, 4, 5, 6, 7 and 8 of *The Neptunian* to the members of Parliament.

He left for the West by boat; stopped for Sunday to visit friends at Cobourg, where he heard a sermon, then returned East by stage coach through Colborne, Belleville and Napanee to Kingston, and then sent the members copies of *The Neptunian* Nos. 10, 11 and 12.

As showing his vigour, it may be mentioned that after his return from Cobourg in 1843 he walked from Kingston to the Mineral (Caledonia) Springs.

Before leaving the transactions of 1843 it may be well to see how much he had accomplished: we can thereby perhaps the better judge of the wisdom and propriety of his future conduct. He had in his petition urged that the House should "have annulled these unhappy doings of 1842, have the pension formally cancelled, and a present and adequate

payment recommended instead thereof." The Report of the Committee (adopted by the House) was "That an Humble Address be presented to His Excellency the Governor-General praying that His Excellency will be pleased to adopt some means of conveying to Robert Fleming Gourlay the opinion of this House on his case in the terms of the Report made to the House by a Select Committee, dated 11th September, 1841, and adopted by this House on the 16th of the same month." The Governor's Secretary wrote Gourlay saying that His Excellency had "great pleasure in complying with this request, and in transmitting to you accordingly the accompanying copy of the Report of a Select Committee of the House of Assembly dated the 11th September, 1841, and adopted by the House on the 16th of the same month. I am further to acquaint you that in compliance with request of the House a yearly grant of £50 was last year directed in your favour by His Excellency's predecessor."

Gourlay said many times, both before and after this, that he was perfectly satisfied with the Report of 1841. This action of the House and of the Governor-General reinstated that action (if anything could) and "annulled the unhappy doings of 1842." He was not, it is true, paid a lump sum, but the annuity already ordered was placed at his disposal; and while he declined it and continued to protest against it, he accepted one instalment of it, salving the matter over by the fact that he had paid it to his printers.

It is very difficult to see why he should not have been satisfied with his triumph; he had got all he asked and more (except a lump sum down). While he must be acquitted of mercenariness, it needs no brilliant imagination to conceive how Gourlay would have assailed another who was not content with such a result. We shall see that he was not.

He had made his way back to Boston by February, 1844; and Nos. 14 to 22 of the *Neptunian* were published at intervals, the first as early as February, the last on April 15th, 1844. All these numbers were filled with accounts of transactions before Gourlay left Canada in 1819. Copies were sent to the Governor-General. He seems to have intended to close the series with No. 22, and he concludes that number with a dedication to his daughter, in which he says that there are now reprinted all his writings in Upper Canada up to May 4th, 1818, etc.

In March, 1844, he laid a petition before the Massachusetts Legislature asking that body to use their endeavours to have the Ambassador to England obtain a settlement of the right of British subjects to change their allegiance. (107) He fills No. 23 with this petition, an address of his to the Governor and Legislature of Massachusetts (of no moment), his Emigration Societies of 1829, his Statistical proposals for Ohio of 1836, and an Invocation to Drumcarrow Craig, written in 1831 (which had already been printed in the Record of his Private Affairs in 1832).

In February of this year he again began to write the Duke of Wellington, asking for a Commission to be sent to Canada, but he ceased in June, of course without any result. He also tried to stir up

the Report of 1841 with Neilson and others. All this he sets out in No. 24.

The death of his only son occurred in November, 1843, but he did not learn of it till July, 1844. He then wrote a long, rambling letter to Sir Charles Metcalfe telling of the death of his son and urging the appointment of Commissioners. This, with transactions and correspondence of 1816, 1817 and 1818, fills No. 25.

No. 26 contains Addresses of 1818 and 1819, the silly presentment of the Grand Jury of Newcastle District (Cobourg) in 1839 against Lord Durham's Report, and a criticism of James Strachan's "Province of Upper Canada." This number completes the first volume of my copy.

Gourlay continued to reside in Boston, (he says he lived in Boston two years and seven months). In September, 1844, he put together the scheme for the improvement of New York in 1835, and a new and elaborate scheme for the improvement of Boston, both accompanied by plans, and published the whole as No. 27 of the Neptunian.

The New York scheme had been handed in at the City Hall, in 1835, and Gourlay then left New York for a fortnight. On his return he was informed that his scheme was under consideration; but he thought it time enough to apply for compensation when the Croton River should be brought to the city. He accordingly left for Ohio, and was detained "there and in Canada by ill-health years beyond expectation." When the great fire of 1836 occurred in New York, he "conceived a grand project for rebuilding on a plan of magnificence, convenience and safety from fire surpassing all that ever had been," and offered his services to the Mayor (January 12th, 1836). Nothing came of this; but being at Avon Springs in September, 1842, he saw an account of the opening of the Fountains in New York. His scheme had contemplated a fountain; and, coming to New York, he presented a new plan to the Mayor and asked for an interview—with no result.

The plan for the improvement of Boston is most elaborate. He expected that city in half a century to have 500,000 souls; he had studied city building for many years, had recommended suburban railways in London, Edinburgh and Liverpool, and advised them for Boston; expecting Boston to be the landing port for Atlantic travellers to and from New York, the harbours must be improved; a grand crescent, squares and boulevards would make the city beautiful, etc., etc.

Nos. 28, 29 and 30 are taken up with the transactions in 1818 and 1819. No. 28 had an added note on the death of Tecumseh, and No. 30 a long note, by way of review.

In this review he says that there were published in Upper Canada in 1818, on behalf of the Friends to Enquiry, four pamphlets: 1, Principles and Proceedings; 2, Transactions of the Convention; 3, a "Narrative addressed to the Worthy Inhabitants of the District of Niagara" (of Gourlay's movements and actions in Eastern Upper Canada in 1818), and, 4, Gourlay's Address to the jury at Kingston. None of these could

be found on his return to the Province in 1838; most, he thought, were destroyed and some hidden. It is satisfactory to know that of these the fourth is still in existence as a separate pamphlet; the first and second are reprinted in the *Chronicles of Canada*, and the third, which was printed at the *Spectator* office, Niagara, August, 1818, is reprinted in the *Neptunian*, No. 30, pp. 405-426.

In October and November, 1844, he writes from Boston two letters to the Duke of Wellington, informing him that Metcalfe had dissolved the Parliament of Canada, and asking the Duke to "put an end to it—put an end to trifling and temporising with British North America," and allow the "Provincials . . . a Convention regularly chosen by themselves . . . to frame a constitution for British North America." No answer was returned.

Receiving the news of the death of his sister and his married daughter, he informed Metcalfe, and hoped comprehensive measures might be framed to put an end to party rancour. This was followed by the original letter which had informed him of his daughter's death and her "last breathings," "words which all of us ought to treasure up against the day of trial." These, with an extract from his *Statistical Account* and a copy of Hume's "baneful domination" letter he published as No. 31 of the *Neptunian*.

Addresses, letters, etc., of 1819 fill Nos. 32, 33 and 34, thereby reproducing either in *The Neptunian* or the *Chronicles of Canada* all his newspaper writing of 1817, 1818 and 1819. Writing a note dated "Boston, December 17, 1844," he says: "My imprisonment and banishment . . . is now declared 'illegal, unconstitutional and without the possibility of excuse or palliation'; out of that all the future miseries of Canada arose, for it confirmed the weak and tyrannical power of Sir Peregrine Maitland, established the Family Compact, and generated what Lord Sydenham styled 'the abominable government.'" (108)

After the 1844 election we find him corresponding with Aylwin, Johnston, Morin, Cameron and Dunlop, with a view to the presentation of another petition. This petition sets out the report of 1841 and subsequent proceedings, the Report of the Council, his petitions in 1842 and 1843, his willingness to appear at the bar of the House to "submit to interrogation on every particular action of his life or assertion he has made"; says that "Ministers of the people's choice could play fast and loose with duties the most sacred, that while they presented to the world a face of honesty they could underhand with a little finger undo appearances and swindle a private individual out of his right, his property and his character—nay, that in doing all this they could make the Representative of Majesty a catspaw, and proceed unblushingly in their course of iniquity"; that this was shown by his treatment by the Executive Council in 1841; that "according to justice and parliamentary usage the decision of (the) House in his case, 1841, was final and . . . more . . . were the report of the Committee of Council allowable as a regular instrument, it can be shown to be what your Petitioner characterized it, 'false, frivolous, mawkish and impertinent.'" He

deemed it his "duty as one of the people to afford the people's Representatives opportunity to vindicate their rights and maintain their integrity," and entreated the House that "his case . . . may be reviewed and gravely considered in order to justice." (109)

It is at least interesting to see Gourlay appealing to Parliamentary usage; and it is impossible that any wholly sane man would believe that any good could come of a petition couched in such abusive terms.

Moreover, one is strongly tempted to be of the same mind as, the genial "Tiger" Dunlop, who wrote him July 17th, 1844, "As to your own case, I don't know what you want. I got you to draw the prayer of your own petition, and by the unanimous vote of the House got all you wanted and more . . . when I find out what you want. I'll try and get it . . ." Gourlay admits that Dunlop's management of the case in 1841 was admirable and "you did indeed get all I wanted in promise," but thinks "this was sadly clouded over by the proceedings next session." Looking at the Report and Address, however, we find a unanimous opinion of the House in favour of Gourlay—nothing modified or clouded this over; they recommended compensation for his losses—he refused a pension, and no one has ever suggested that one wronged by a prosecution by the Crown has a right to compensation, although the Crown has been known to give a sum of money as an act of grace. Gourlay refused any act of grace. The one thing which he seems to have wanted was some repudiation by the Crown of his prosecution; and that he could by no possibility get so long as there was a lawyer in the Government.

This petition and some of the correspondence will be found in No. 35.

It was presented and read February 13th, 1845, (110) but nothing was done on it; No. 36 records this fact and gives some more correspondence as also an account of the "Markham College" jest of 1839.

No. 37, published June, 1845, contains some correspondence in 1825 and 1841, concluding with a long letter to Neilson in 1845; No. 38 contains certain correspondence in 1843 and 1845 including a letter to a medical journal in August, 1845, concerning his insomnia, and concludes with a Dedication to Hon. John Neilson, M.L.C., Canada, dated Boston, August 28th, 1845. This has as its final sentence: "I have given you credit, and still do, for good intentions, although you have caused me infinite misery. In the end I shall be happy to show that **'it was not you that did it but God.'**" The misery (he points out) was caused by Neilson, 1, declining to present the memorial of 1841 because he thought it would make people think Gourlay much worse than he was; 2, preventing the printing in the Quebec Gazette of his case because it would do no good; 3, concurring with the Speaker in the opinion that the 1842 petition was informal; 4, begging for Gourlay as feeble in body and in mind; 5, procuring for him a pension as for the widow of the late Surveyor-General, and; 6, questioning whether he was exempt from errors in 1817-1818—all surely venial offences, if offences at all.

In September he came to Montreal "having no object . . . but an interview with His Excellency"; and wrote the Governor asking for one. He sent a copy of the letter which he had written to Dr. Dunlop in September, 1841, and asked that the Parliamentary transactions of that year should be acted on and those of 1842 cancelled. Metcalfe treated him with kindness (gratefully acknowledged) and entertained him at dinner; but ill-health again drove him to Avon Springs; from that place he solicited the Governor's assistance toward a new edition of his Statistical Account (he says that it was for this purpose he crossed the Atlantic in 1833); he had solicited like aid from Head in 1836 and Arthur in 1838 with the same want of success. By October 14th he had made his way via Albany to Niagara Falls on his way to his log house in Dereham. Spending four days at the Niagara frontier he embarked at Buffalo and landed the second day at Fort St. Clair; crossed the river to Sutherland and then by steamer "Goderich" to Sarnia and afterwards to Goderich. He spent one day at the show of agricultural stock and then went to Dr. Dunlop's residence on the River Maitland. Setting off on foot for Galt he stopped for the night at Cook's Inn, ten miles from Goderich, in a settlement where "half the settlers were Scotch, more than a fourth Irish and the rest English, etc." Having got twenty-seven miles from Goderich he was attacked by his old enemy erysipelas, and lay for two days "dead lame in a miserable tavern surrounded by an Irish colony where no comfort could be had either for love or money." On the third day he was carried back in an ox wagon ten miles to better quarters, and the following day he was conveyed to his friend, Dr. Dunlop's. Being there most kindly entertained he was so far recovered in three days that he could be taken in the Doctor's wagon to Goderich; he there took the boat and after four days journey in three several vessels he arrived at Chippewa, November 8th; thence he went to Queenston where he remained "with old friends, free of pain, but requiring time to reduce the swelling in" his leg.

By November 30th he had arrived at Montreal to see Metcalfe, but Metcalfe's state of health prevented an audience, and Gourlay determined to "retreat to the sea-board for the benefit of milder weather till the sitting of Parliament." He was again confined to bed and seems to have remained at the Ottawa Hotel, Montreal, till the meeting of Parliament. All this is printed in *The Neptunian*, No. 39, the last document printed being a letter to Hon. D. B. Viger dated from the Ottawa House March 12th, 1846.

We lose now the guidance of *The Neptunian* <sup>(111)</sup>, but the *Journal of Parliament* helps for a time to trace his activities.

On April 9th, 1846, a petition was presented from Gourlay which set out the Report of 1841, the proceedings thereon, the Report of the Executive Council, the petition of 1842, etc.; doubts not that the House would sustain the Report of 1841 against the Council, and asks that the whole should be taken into the serious consideration of the House. This was ordered to be printed.

On May 4th he had another petition presented; this mentions the Memorials of 1836 and 1839, the Petition of 1841 and the result, that the Report of the Executive Council in 1841 "is cunningly devised; in its assertions it is bold and deceptive, and in its arguments fallacious, sometimes begging the question where that is inadmissible" (it does not say when begging the question is admissible) "and often insinuating purposely to mislead"; the Act of 1804 was intended for Irish rebels or aliens while he was an unattainted British subject; "the Chief Justice of Upper Canada . . . most assuredly sinned against light, judged contrary to evidence," "aye, and after all the writer of the Report of Council drivels about 'commiseration'"; "there is now only one question for consideration," "are the opinions expressed in the Report of the House, 1841, sound and true?"—"he now therefore entreats that he may be heard in person or by counsel at the Bar of the House or before . . . a Committee." This petition was also printed, but a motion May 11th that he be heard in person or by counsel was defeated on a division.

Gourlay returns to the charge; May 22nd another petition is presented from him. This sets out once more the proceedings in 1841, "that as yet his sentence of banishment is not declared null and void, neither has he been compensated for losses"; his pedigree is set out, his exclusion in 1820 from the English Bar by reason of his conviction in Upper Canada; his candidature for the Chair of Agriculture in the University of Edinburgh in 1831, with six testimonials given in full. He entreats that the whole of the premises may be duly considered, and "compensation be allowed him for expenses incurred these last five years, the whole of this time being devoted to his defence as a British subject." This also was printed with the others, and was equally ineffective. (112)

## CHAPTER VIII.

### Visit to Scotland and Return to Upper Canada.

Even Gourlay's patience was now exhausted; he returned to Scotland, took up his residence in Edinburgh, and devoted himself for a time and with some success to rescuing from the wreck of his father's fortune sufficient for his sustenance. In 1848 he took up with vigour opposition to an enclosing project which he thought against justice and law; in November, 1849, he drew up a sketch for the "Edinburgh Arcade and Foot Bridge," "which he had lithographed and presented to the Lord Provost and Citizens of Edinburgh." In the following year he published a more elaborate plan for the improvement of that city, and placed it on sale in a small pamphlet. (113)

In 1851 we find him at the Bridge of Allan for his health (109); he was feeble, and "the chances are that I shall never see Canada again, which will grieve me, as there are many in the Province dear to my remembrance." In 1852, after addressing a public meeting with his usual vehemence, he was knocked down, a carriage passed over him and broke one of his legs. He never fully recovered, and was lame for the rest of his life.

He always retained his interest in Canada; and we find him in 1852 publishing a pamphlet advocating a duty on wheat from the United States, while wheat from Canada should be admitted free. He was no more successful in this than Chamberlain and his followers half a century later. (114)

Gourlay came again to Canada in 1856 and took up his residence on his Dereham land, which he called "Ceres" after his native parish. The facts of the occurrences of 1856 and 1857 are set out in detail in a publication, "Mr. Gourlay's Case," mentioned in note 118.

Early in 1856 he instructed his man of business in Edinburgh, Mr. John Cook, W.S., to prepare a petition to the Canadian Parliament; he was then in such a condition of health that he doubted ever again being able to go to Canada. "Its main object was that my claims on the Government of Canada might be maintained in case of my death, and more especially that no stain should attach to my character"; "deeming all pecuniary advantage as dust in the balance compared with what affected my honour . . . had what the petition prayed for been . . . granted, I would have sat down contented."

This petition was sent to the Speaker of the Assembly and duplicates to several members; April 2nd, 1856, it was duly presented to the House of Assembly, "praying that the sentence of banishment passed upon him in the year 1819 may be annulled." This was, April 16th, referred to a committee composed of Hon. Mr. Merritt, Sir Allan MacNab, Solicitor-General Smith, Roderick McDonald, Hon. John Sandfield Macdonald,

Hon. Mr. Robinson and Joseph Curran Morrison. They reported, June 11th, recommending an Address to the Governor-General, "praying His Excellency to sanction the introduction of a Bill for the remission of the sentence or to exercise the Royal Clemency for restoring him his political rights by a free pardon for the alleged offences for which he has been convicted under a Law which has since been repealed." An Address in these terms was agreed to June 28th, and presented to the Governor. The House was prorogued July 1st. (115)

Mr. W. H. Merritt wrote Gourlay, June 28th, that the Assembly had recommended a full pardon to be granted; and added the next day a note, "You are at liberty to draw your pension whenever you please to send a power of attorney . . . to draw the money which I take it for granted you will now accept." This was of course the pension or annuity granted in 1842. It is stated by some writers that the annuity or pension was granted in 1856, but this is a mistake.

As soon as Gourlay received Merritt's communciation he wrote (Edinburgh, July 17th, 1856): "Accept the money . . . certainly I will not—neither pension nor pardon, however free—neither now nor ever . . . the Report of 1841 I hold by and that alone. . . . Should my life be spared I may yet be in Canada more fully to plead my cause." The letters by Merritt and Gourlay's reply he printed in Edinburgh and distributed among his friends in Scotland; copies were also sent to the members of the committee and some friends in Canada.

His health being restored, he sailed from Liverpool, accompanied by a daughter, August 13th, landed at Philadelphia, August 29th, and proceeded to Canada.

In London, C.W., he printed a call to the people of Canada:

London, Canada West,  
September 23rd, 1856.

"People of Canada!

"Here I am! Will you countenance me? Without the public ear I am helpless; with it, confident of going to the grave triumphant.

Your aged friend,  
Robert F. Gourlay."

Continuing to travel through Canada, and distributing copies of the Edinburgh reprint by the way, he reached Montreal; afterwards he established himself for a time in Woodstock, wrote Mr. Merritt asking his advice, was told (February 17th, 1857) that he should send in a petition for the pension in arrears and accept it, or visit Toronto during the second week of the session, when Merritt would confer with him personally. Gourlay agreed (Woodstock, April 9th, 1857) "to send in a memorial regarding his case." He did write one, but concluded to retain it, "for so many have been presented to the Assembly on the same subject that another would only increase confusion." "The Administrator paid me £50, 1841, and the Governor-General sent me a year's pension to Boston,

which I handed over to the Printer of my Record." This is the only place Gourlay admits having received any payment on account of the pension; and he seems to desire to excuse its acceptance by the fact that he paid it to a printer.

Parliament met in April, but the petition or memorial was not forthcoming. The memorial is printed in the pamphlet, "Mr. Gourlay's Case." (See note 118). It is along the familiar lines, and asks that the House should "take the Report . . . of 1841 . . . into consideration and . . . give effect to said Report by annulling or by adoption of such measures as will enable the Assembly to annul the sentence of banishment."

In May, on seeing in the Woodstock "Sentinel" a news item saying that a pardon was about to be issued to him, he authorized the editor to say that he considered any offer of pardon an insult. He hastened to Toronto and protested to the Governor, Sir Edmund Head, against the issue of a pardon. His Excellency replied that he intended "to be guided by his constitutional advisers, proceeding on grounds of a public rather than a private nature."

In May Gourlay had a memorial presented to the House by Mr. Merritt referring to the petition sent from Scotland in 1856, the information in Merritt's letter, his own reply, his sailing from Liverpool, his arrival in Philadelphia and in Canada, his printing an account of the whole transaction at London, and his sending a copy to each member of the House; he prayed to be heard personally at the Bar of the House. This the Speaker declared disrespectful to the House as it militated against what it had declared the preceding year; Merritt agreed in this opinion. Gourlay appealed to the Governor, only to be told that it was no part of the Governor's duty "to question or control the opinion of the Speaker of the Assembly as to the tenor of any petition or memorial addressed to that Body." But Gourlay entered into communication with the Speaker and at length, June 9th, Merritt presented an emasculated petition ("gutted," Gourlay calls it), and moved that he be heard at the Bar as prayed for in his petition. The motion was lost on a narrow division (23 to 25). Gourlay never doubted "of a hearing till the Attorney-General (Macdonald) stood up in opposition, holding in his hand the gutted petition and exposing its nakedness!"

Petitions were during the year presented to the House "to remove all stains cast upon the reputation of Robert Fleming Gourlay, Esquire." These came from the Municipal Council of Dereham and certain inhabitants of Woodstock, Ingersoll and North Norwich. Gourlay at once published at Ingersoll, June 30th, an address to the inhabitants of Dereham, Norwich, Woodstock and Ingersoll telling them the story, and concluding, "God Save the Queen and the Collective Wisdom of Canada!!!" He then hastened to Kingston to protest to the Administrator, Sir William Eyre, against the pardon; he had an interview with him, but could make no progress—the matter "is still before the Executive Council." Although he has received only £120 in all, during fourteen

years for expenses and must return to Toronto," the wheels will not revolve—and at last in despair he gets back to Mount Elgin "at home" in October; addresses the inhabitants of Dereham thanking God he yet lives and although he has seen eighty summers and is lame, feels confident thus of guiding them to good. He concludes with the pathetic appeal: "Will you listen?"

In 1857 a petition was presented to the Legislative Council from the Municipal Council of Dereham "praying that measures be taken to give effect to the recommendations of the Legislative Assembly to annul the sentence of banishment passed on R. F. Gourlay in the year 1819"; and another from some inhabitants of the Village of Ingersoll "that the case of Robert Fleming Gourlay may receive the favourable consideration of the House." (116)

In this year he published at Ingersoll a new edition of "The Chronicles of Canada" slightly abridged. It contains the Principles and Proceedings, the Proceedings of the Local Meetings, the Meeting of the Friends to Inquiry, an account of Gourlay's Arrest and Trial at Kingston, certain proceedings of the Parliament in 1818, Gourlay's Review, and adds "Finally Concluded," dated Ceres (Lot 3, 4th Con.), Dereham, November 2, 1857. This tells that it had been put to him that he should offer himself as a candidate at the next general election for a seat in Parliament, and he takes the opportunity to say that he would not sit in such save to move for a Convention in order to draw up a new Constitution urgently called for. "Having seen eighty summers and being at present in poor health, I am fit for no great exertion; but I am here in my own house ready to advise; and first I may be conversed with by inhabitants of Dereham, then of the adjoining municipalities of Norwich, Ingersoll and Woodstock. Their friendly manifestations for me last session of Parliament was gratifying; and should they heartily enter into my views of a Convention, that may be in Session by next Christmas." (117)

The following year, April 15th, he again laid his grievance before the House of Assembly and asked to be heard at the Bar of the House; on the 21st May on a narrow division (41 to 38) it was ordered that he be so heard on "Wednesday, the second day of June next, on the subject of certain grievances set forth in his petition." The motion was supported by strong speeches by W. L. Mackenzie and George Brown, and opposed by John Sandfield Macdonald, J. A. Macdonald, Sicotte and others; Mackenzie, Gourlay's old *bête noir* being especially emphatic.

Being too sick to come to Toronto he was not heard on that day, and on June 24th he presented another petition to be heard; he was heard June 30th. A full report of what took place is to be found in a pamphlet published by "The Globe" at the time. (118)

Gourlay seems to have lost his head, the speech is weak, rambling and inconclusive. He begins by saying that he appears not as a suppliant, but to defend the rights of a British subject, speaks of his wrongs, (holding up a copy of "Chronicles of Canada No. 1" as evidence) the

iniquitous law under which he was convicted, the rancour and malignity of Strachan, his Commission as Captain of Volunteers in 1799, his services during the Rebellion of 1837-38, the providential nature of the emancipation of the United States from British rule, that he was Republican in a good sense, attached to no party, devoted to the cause of the labouring classes. "Responsible Government! What has that effected? an unblushing waste of public money and a monstrous debt." "I was in Canada while a new Constitution was drawn up in England by Lord John Russell. No individual but myself cared for the result. I advised meeting in Convention but nothing could then be heard for the bawlers for Responsible Government." "Having said this much I proceed to the more special business which has brought me here, begging you to receive for inspection by the members the pamphlet so often referred to (*Chronicles of Canada*) together with the other (*The Banished Briton and Neptunian No. 1*) containing testimonials in my favour by some of the most eminent men in Scotland which but sustain my character and silence calumny." Then he attacks the Speaker of the previous session for throwing out his first petition and says that that petition was not improper or disrespectful; he goes into the transactions of 1841, and attacks the Speaker for "his conduct regarding petitions," finds fault that his petition was not printed "in order that copies might be sent to my friends in the country." He appeals against the conduct of the Speaker in 1842, "Dr. Dunlop and Mr. Neilson were respectable men and I doubt not, meant well by me; but they had no right whatever to act as they did," their conduct "to this day has involved me in trouble"; "at this moment I have . . . nothing but existence in a log house on my land in the Township of Dereham, nothing for it but my appeal for justice to this Honourable House."

Such a lame and impotent conclusion would be ludicrous did it not evidence either complete loss of control of himself or a marked weakness bodily or mental in the speaker. No doubt it was a bitter disappointment to Gourlay's friends, most of whom had fought a life-long battle for the Responsible Government which he treated with such contempt.

Gourlay went home to the country but returned to Toronto almost immediately and endeavoured to get from Sir Edmund Head an answer to his enquiry as to what was being done about his proposed pardon. He received no reply. He also advised Sir Edmund to read a pamphlet published in 1829, "*A Record of Emigration Societies*"; this we have already referred to as part of the contents of No. 23 of "*The Neptunian*."

Gourlay, August 5th, petitioned the House "to vote an address to His Excellency . . . to give him the benefit of certain Resolutions passed by the Legislative Assembly in 1841"; and an address was voted and ordered to be engrossed and presented to the Governor "to grant to the said Robert Fleming Gourlay the full benefit of the said Resolution, as passed by the said Assembly." Unfortunately this was on the last day of the Sittings of the House, and the House was prorogued before any engrossing could be done. (119)

A petition against squatters who had taken possession of some of his land during a long absence from the Province had no success. (120)

A last attempt to obtain from the House what he conceived to be his rights was made in 1859, when he presented another petition, February 2nd, setting out his grievances and claiming relief. It was received and nothing more. (121)

The next year, 1860, he was nominated for the House of Assembly for his Riding but received little support.

## CHAPTER IX.

### The Final Scene.

About 1858, being eighty years old, he married a lady of Woodstock who had been his housekeeper; but disagreements arose between them, and he left the Province shortly after his defeat, abandoning the farm to his wife; he went to Edinburgh, where he died August 1st, 1862, in the eighty-fifth year of his age.

He never accepted any of the pension granted him except the one instalment already mentioned. After his death his only surviving children, Jean and Ellen Gourlay, presented a petition, March 18th, 1864, "praying that certain sums of money voted to their deceased father may be now paid to them"; (122) and this was ordered without opposition.

Mention has been made more than once of Gourlay's insomnia; any account of his life would be defective if that were overlooked.

He tells us that this did not trouble him till 1833. When in the House of Correction at Cold-Bath Fields he had had very little need of sleep, and the greater part of the time spent in bed, never more than six hours, was given to reveries. He thinks that the habit of doing without sleep began to form at that time; after he left the prison and from March, 1828, till November, 1833, he was tortured with unsettled business affairs but was generally in perfect health. He could walk without fatigue from morn to night and four or five hours' sleep were quite enough for rest and enjoyment.

November 5th, 1833, he left Edinburgh at 6 p.m. in a canal-boat for Glasgow; the boat was an iron one, jarring every little while against some other boat, bridge or lock, it kept him in unspeakable discomfort, and sleep was out of the question. The ship from Greenock to Liverpool ran into a hurricane and was at sea till the second day. These two nights were sleepless like the preceding. Before going on board his ship for New York he told the Captain his condition, and was advised to take a warm bath before going to bed at Liverpool. He did so, and got some sleep; but all the way over, from November 9th to December he had not a wink of sleep. Laudanum, opium, getting tipsy, all were in vain. The "grog" indeed made him sick for the first time at sea, but he got no sleep. This spell of sleeplessness, it will be seen, was of more than six weeks' duration.

The next attack came on at Willoughby, Ohio, in the beginning of January, 1837, when he was seized with erysipelas in the leg. Thereafter he was five months without sleep, then sleep returned gradually; for many weeks he dozed at times and had strange dreams.

About January, 1839, the insomnia again set in, induced by ill-health and family affliction. After enduring it for seven months he

consulted Dr. Widmer, of Toronto, "reputed the most experienced physician in Upper Canada," and certainly well-deserving his fame. He advised to dine early and go to bed fasting; this to the last afforded the most comfort. He also prescribed Acetate of Morphia, which had not the slightest effect. The Doctor supposed that the trouble proceeded from excitement, reading and writing in politics, but Gourlay thought this a mistake, his view being that it arose from unsettled private affairs.

After three years of this sleeplessness Gourlay consulted Dr. Robinson of Montreal, who had a patient, Mr. Jamieson, who had not slept for five months; Dr. Robinson could do nothing.

In September, 1840, arriving in New York from St. Catharines after a long and wearisome voyage, he lay down on a luxurious bed, closed round with mosquito curtains, and he will not swear that he slept none. So, too, in June, 1841, seated in the door of his log-house in Dereham, during the stillness of a summer evening, he verily believes he would have slept had not a neighbour disturbed him. Five months afterwards in Kingston (November, 1841), he had a delightful night, and told his landlady he had nearly been asleep; at Quebec a week afterwards he "dozed and dreamt which is certainly an approach to sleep"; while about a year afterwards, after being "entertained for a whole day in the most delightful manner," he flung himself into bed, and "if Morpheus did not obtain dominion over" him, he "had at least perfect repose." Several times persons came into his room and reported that they had found him asleep, but this he denies; he "knew the train of" his "thoughts perfectly." He had "tried many remedies, a hop pillow, hop tea, etc., etc., and laudanum, fifty drops, seventy drops, ninety drops and upwards of a hundred, yet still . . . no sleep." He had not as yet tried mesmerism.

All the above is from a letter, Boston, May 10th, 1843, to "The Boston Medical and Surgical Journal." In the following month (June 16) he obtained two hours' sleep, but no more up to the day of the date of a subsequent letter to the same Journal, July 15th, 1843. (123)

At no subsequent date does Gourlay recur to this affliction. It is therefore to be presumed that he was quite cured of it.

This extraordinary story there can be no doubt Gourlay implicitly believed. He was, it is certain, incapable of mis-stating a fact, however wrong his inferences might be; but it is equally certain that he was in error. It is by no means an uncommon circumstance that one believes he has not slept a wink all night when those occupying the same room or perhaps the same bed with him, have been kept awake for an hour or more by his snoring. Everyone must have had experiences of whole nights passed, as he thinks, in sleeplessness, when it has been made quite certain that he did in fact sleep. No medical man could be found who would believe that Gourlay could pass years without sleep, even if he did nothing but rest; not to mention that he was mentally and physically active during practically the whole period.

No doubt he was a light sleeper and did not require many hours of sleep. This seems a part of his general ill-health; when he says that his "constitution, naturally strong and vigorous, was till forty years of age sustained by healthy exercise as a farmer, riding and walking much" (124), this must be taken *cum grano salis*. In 1809 he was advised to move to England on account of his health; "rendering a change of climate necessary"; in the summer of 1815 he had to go to Cheltenham to take the waters there on account of ill-health; on coming to Upper Canada he was confined to the house for two months by sickness which indeed he attributed to mosquito bites. All this was before the confinement in Niagara gaol. Thereafter, his frequent attacks of erysipelas indicate an undermined constitution; but the most noticeable illness is of a "nervous" character—the rheumatism may be fairly accounted for by the wetting he got near Staines. Using his own words, he "suffered for years from a nervous disease"; he "guarded against the usual consequences by means not one in a thousand would have resolution for"; he "by no means acknowledged insanity," but it was necessary in order "to save his reason" (he was "on the verge of madness") that he should break stones on the road, a pauper where he had been a farmer, thereby curing himself of the nervous disease which "for three years tore him to pieces"; he determined at one time, when suffering from this "nervous" disease to commit suicide at the Land's End. After returning to Canada, we find him stricken again and again, and on returning to Scotland he feared he never would see Canada again by reason of his state of health.

Yet he did marvels in the way of walking; till forty years of age, walks of forty miles a day never distressed him. On his return to the Old Land in 1819, we find him at once making walking tours in Scotland, later in England. On release from Cold-Bath Fields he walked in Scotland from morn till night without fatigue, and when again in Canada we find him walking on every opportunity. No doubt this exercise, coupled with a constitution originally sound and a temperament from infancy sanguine and enthusiastic, enabled him to live to the great age he attained, notwithstanding the rude buffetings of the world, bitter disappointments and grievous sorrow. (125)

## NOTES TO PART II.

- (1)—Nep. No. 25, pp. 325, 326.
- (2)—Nep. No. 25, p. 326.
- (3)—Gen. Intro., pp. x. sqq.; Ap., pp. 5 sqq.
- (4)—Gen. Intro., p. cxviii: This is the work published under the name of James Strachan, which (and whom) Gourlay treats with proper contempt, (Nep. No. 26, pp. 348 sqq.). See Note 51 to Part I.
- (5)—Gen. Intro., p. excix.
- (6)—Gen. Intro., pp. cci., cciv.
- (7)—Gen. Intro., pp. xiii sqq., li. sqq.
- (8)—Gen. Intro., pp. li., sqq. About fifty of the letters were returned marked "refused to pay the postage." These Gourlay reposted through the Two-penny post-office; fifteen were returned as the members could not be found; these Gourlay took himself to the office of the House of Commons appointed to receive the letters of members. The keeper made a charge of one shilling each, but offered to take twelve shillings in all. Gourlay refused to pay and dispatched them through the Two-penny Postoffice to the House of Commons. This was an instance of very common petty "graft," which Gourlay very properly exposed.
- (9)—Gen. Intro., p. liii.
- (10)—This was the Eighth Parliament of Upper Canada, which met in January, 1821, and repealed the "Gagging Act." Gourlay grieves over the fact that the struggles of the Executive were so far successful as to secure in some of the more benighted districts the return of seven lawyers "who no doubt will confound reason and retard the progress of common sense with all their might." Gen. Intro., p. 1.
- (11)—Gen. Intro., p. ccvi.
- (12)—Sir Robert Thomas Wilson (1777-1849), a valiant and successful soldier who had served in many parts of the world and had written an account of the British army in Egypt. In 1821 it was proposed that he should lead the insurgent force at Naples, joining them with a body of volunteers; but the proposal came to nothing. Wilson was a partisan of Queen Caroline, and a little later in the same year he got into disgrace from his intervening between the Household Cavalry and the mob at Cumberland Gate, Hyde Park, at the Queen's funeral, August 14th. His intervention was solely to prevent bloodshed, but this did not save him from dismissal from the army.
- Gourlay had been disgusted by some passages in Wilson's book, but overlooked them for the sake of joining him.
- (13)—Gen. Intro., p. ccviii. His account of his desire to become a barrister will be found in Nep. No. 1, p. 3.
- (14)—Gen. Intro., p. ccx.
- (15)—Ap., pp. 21-24 (A4). Gen. Intro., pp. cclxxxii., sq.
- (16)—Gen. Intro., pp. cclxxxvii-cxcxix.
- (17)—Gen. Intro., pp. cclxvii sq.
- (18)—Gen. Intro., pp. cclxiii., sqq.
- (19)—Gen. Intro., pp. cccxlv., sqq. Ap., p. 24 (A5).
- (20)—All are crown octavo:

General Introduction  
to  
Statistical Account  
of  
Upper Canada  
Compiled With a View to a Grand System  
of Emigration  
In Connexion With a Reform of the Poor Laws,  
By Robert Gourlay.  
"Thy spirit, Independence, let me share,  
Lord of the lion-heart and eagle-eye."  
London.  
Published by Simpkin and Marshall, Stationers' Court,  
Ludgate Street,  
1822.

Statistical Account  
of  
Upper Canada  
Compiled  
With a View to a Grand System of  
Emigration  
by  
Robert Gourlay.  
"Thy spirit, Independence, let me share,  
Lord of the lion-heart and eagle-eye."  
Vol. I. (II.)  
London.  
Published by Simpkin and Marshall, Stationers' Court,  
January 1st, 1822.

The two volumes have on the title page a beautiful vignette of the Falls of Niagara, but from a different view-point in the two volumes. In both, the word "Independence" is floating in the vapour rising from the Canadian Falls. The preparation of the proposed third volume appears from Nep. No. 31, p. 433; Nep. No. 36, p. 489. The letter to Hume mentioned in the text is given in full, Ap. p. 169 sqq. (B42); his statement concerning his criticism of Brougham's Educational Bill in a letter to Brougham May 21st, 1823, Ap., pp. 162 sqq. (B34).

- (21)—Ap., pp. 29 sqq. (A 6).
- (22)—Ap., pp. 33, 34 (A 7). This petition we shall have occasion to mention again.
- (23)—Ap., pp. 34-36 (A 8).
- (24)—Ap., p. 40.
- (25)—Ap., pp. 45 sqq. (A 11).
- (26)—Ap., pp. 40 sqq. (A 9).
- (27)—Ap., pp. 43 sqq. (A 10).
- (28)—Nep. No. 2, p. 6.
- (29)—Ap., pp. 50 sqq. (A 12, A 13 and A 14).
- (30)—Ap., pp. 53 sqq. (A 15).
- (31)—Ap., p. 55.
- (32)—Ap., pp. 55, 56 (A 16).
- (33)—Ap., pp. 56 sqq. (A 17).
- (34)—Ap., pp. 60 sqq. (A 18). His account of the advice to lecture in London in 1823 is to be found in Nep. No. 1, p. 3; his suicidal mania appears from a letter to the Lord Chancellor dated March 12th, 1823, Ap., pp. 69 sqq. The meeting with Graham is spoken of Nep. No. 36, p. 495.

(35)—Nep. No. 2, p. 5. Of Dr. Hamilton he says, June 17th, 1824: (Ap., p. 98) "Madmen do not communicate their designs; I concerted mine against Mr. Brougham in the lobby of the House of Commons five months ago with Doctor Joseph Hamilton, who approved. Dr. H. received a liberal education, took out his degree as a physician at Edinburgh six years ago, practised in Canada several years, and is in every way entitled to respect as a gentleman."

(36)—Address to the Gentlemen of Westmoreland, June 8th, 1824, from Cold-Bath Fields, House of Correction. Ap., p. xc.

(37)—

An  
Appeal  
to the  
Common Sense, Mind, and Manhood,  
of  
The British Nation  
by  
Robert Gourlay, Esq.,

Now and for the last two years imprisoned without fair examination or trial.

"Long years! It tries the thrilling frame to bear  
Long years of outrage, calumny and wrong,  
Imputed madness—prisoned solitude."

London.

Printed for the author,  
and sold by Sherwood, Gilbert and Piper,  
Paternoster Row,  
1826.

Practically all the facts about Gourlay's life during this period are set out in this very curious book.

(38)—Ap., pp. 1 sqq. (A 1).

(39)—Ap., p. 3.

(40)—Ap., pp. 172 sqq. (Nos. 3, 4).

(41)—Ap., p. 179 (No. 5).

(42)—Ap., pp. 180 sqq. (No. 6). Perhaps his concession of the possible honesty of Strachan may also be considered an instance. See Note 68 to Part I.

(43)—Ap., pp. 107 sqq. (A 23). The correspondence Ap., pp. 180 sqq.

(45)—Ap., pp. 112 sqq. (A 25).

(46)—Ap., pp. 118 sqq. (A 26).

(47)—Ap., pp. 122 sqq. (A 27). The letter to the King is printed, Ap., pp. 195, 196.

(48)—Ap., pp. 125 sqq. (A 28).

(49)—Hansard N.S., Vol. 17, p. 1439. Hume had, November 27, in the previous year, presented a petition for him asking for a commission on the Poor Laws; "ordered to be laid on the table"; Hansard N. S., Vol. 16, p. 142.

(50)—Nep. No. 2, p. 3.

(51)—Nep. No. 9, p. 85.

(52)—I infer this from his statements, Nep. No. 9, p. 85, which seem to indicate that March, 1828, immediately followed his confinement.

(53)—Nep. No. 4, p. 44; his early determination appears from an article in the Farmers' Journal of January 3rd, 1825. App. lxii.

(54)—Nep. No. 9, p. 85; See also Nep. No. 1, p. 3, from which it appears that as early as July, 1827, he had determined to set up as a Land Agent and cross the Atlantic annually.

(55)—Nep. No. 4, p. 44.

(56)—Nep. No. 4, pp. 44 sqq.

(57)—Nep. No. 24, pp. 269. The last letter to General Jackson is dated January 28, 1830. The "Purposes of Emigration Societies, Union and Agency" will be found at pp. 272, 273. They were formed to obtain full information as to the best places to which to emigrate. His plans for improving Edinburgh Nep. Nos. 9 and 27: his maxim Nep 2, p. 1; Nep. 7, p. 67.

(58)—Nep. No. 24, pp. 277 sqq.

(59)—Nep. No. 24, p. 288. I have not seen either of these; extracts from both are printed in Nep. No. 24. He had already in 1816 printed 260 pages of his private affairs (Ap., p. 116); this I have not seen. The volume printed in 1832 contained seven parts, 222 pages in all, of which the first part, 36 pages, is reprinted in Nep. No. 24, see p. 328.

(60)—Nep. No. 1, pp. 3-13. Two hundred copies of his testimonials were printed in Scotland in 1831; one copy was brought to America and a selection printed at Cleveland, Ohio, in 1836, Nep. No. 1, is largely a reprint of the latter. Of the certificates, that from the well-known Dr. Chalmers had been obtained in February, 1826, during Gourlay's incarceration in Cold-Bath Fields. Dr. Chalmers in 1831 saw no reason to vary it. Nep. No. 1, pp. 11 and 12.

(61)—Gen. Intro., pp. cexvii., sqq. cf. Note 117 to Part I.

(62)—Nep No. 2, p. 6.

(63)—Nep. No. 2, p. 20.

(64)—Gourlay's only son Oliver was born at Deptford Farm, Wiltshire, January 29th, 1812. After an apprenticeship of four years at Leith with John Ferguson, a wine merchant, he came to Canada in 1830, the father having written commending him to the care of Hon. John Neilson; Oliver made his way to Upper Canada, where he lived about three years—with his kinsman, Hon. John Hamilton (his mother's cousin), at Prescott for a time (Nep. No. 23, p. 288). When Gourlay came to New York in 1833, he bespoke the good-will of John Jacob Astor to find his son a place in some respectable mercantile house; but Oliver had, without consulting his father, agreed to go for four years to Singapore. He went to the East and became a general merchant at Port Philip, Australia. A fearless swimmer he saved several lives, and as a special constable at Port Philip, he displayed such courage against Bush-Rangers that a public dinner was given him. He died on board ship on a trading voyage from Port Philip to Manilla and China, November 19th, 1843, after fourteen days' illness. Nep. No. 25, pp. 297, 328; Nep. No. 37, p. 503.

(65)—Nep. No. 25, p. 328.

(66)—Nep. No. 9, p. 85.

(67)—Nep. No. 2, p. 3.

(68)—Nep. No. 2, pp. 3, 20.

(69)—Nep. No. 2, p. 3.

(70)—It is to be found printed for the third time in Nep. No. 2, pp. 4-8; see Nep. No. 11, p. 100.

(71)—Nep. No. 23, p. 254. Willoughby is still a village of less than 2,000 inhabitants; in Lake County on the Chagrin River, and about 18 miles N.N.E. from Cleveland on the L. S. and M. S. Railway and the N. Y. C. and St. L. Railway.

(72)—He published a pamphlet (which I have not seen) at Cleveland Ohio, in 1836:

"Proposals  
For Drawing Up and Publishing  
A Statistical Account of Ohio  
Under the Direction of Its Legislature."  
Nep. No. 23, pp. 281 sqq.

(73)—Nep. No. 2, p. 9.

(74)—Nep. No. 2, p. 10. Gourlay in 1842 published in the British Whig of Kingston what he calls a "Fable of the Lion and the Bear" as silly and pointless as anything ever written—The Kingston Chronicle had refused to print it, Nep. No. 10, pp. 95, 96. Writing in 1843 he says that this "Fable" explains the allusion to the Great Bear of London District: I cannot follow the explanation if there is one.

(75)—Nep. No. 10, p. 96.

(76)—Nep. No. 2, pp. 9, 10.

(77)—Nep. No. 4, pp. 41, 42; Nep. No. 5, p. 49 (note).

(78)—I have never seen a copy of this "Banished Briton"; there seem to have been at least seven numbers; the contents, however, must be found reprinted in "The Neptunian."

So far as can be made out by putting together the various references by Gourlay, the following results:

In New York, in 1835, Gourlay printed his correspondence with the Duke of Wellington and Petition of that year (Nep. No. 11, p. 100), in the following year he printed in Cleveland copies of his agricultural testimonials (Nep. No. 1, p. 3) and sent copies to Sir Francis Bond Head (Nep. No. 2, p. 9). On returning home from Canada in 1837 he printed the correspondence with Head (Nep. No. 2, p. 12) and added to his record. This made a pamphlet containing correspondence with the Duke, Sir Francis and the Governor of Ohio (Nep. No. 4, p. 48), to which he gave the title "The Banished Briton" (Nep. No. 4, p. 48). Of this he sent a copy to Mackenzie, January 1st, 1838 (Nep. No. 2, p. 14) and to Sir Francis (Nep. No. 2, p. 15). He tells us specifically that the "Banished Briton" was printed in Cleveland in 1836 (Nep. No. 10, p. 96); and it seems clear that this was the first number of a proposed periodical with that name (see also Nep. No. 2, pp. 27, 28).

In May, 1839, he intended to publish "The Banished Briton" (Nep. No. 7, p. 69); he did print "The Banished Briton" at Buffalo, September, 1839, containing his memorials of 1836 and 1839, the proceedings thereon and his protest, etc., of May, 1839 (Nep. No. 6, p. 57); this must be No. 2. An extra was added to this at St. Catharines in January, 1840, to register transactions up to that time (Nep. No. 3, p. 38) and "The Banished Briton No. 3" was printed in Toronto in February, 1840, of newspaper slips, letter to the Queen, correspondence with Sir Francis and with Mr. Thompson and "to add zest to it" the two parts of the "Monkey War" (Nep. No. 3, p. 39), with the addition of the letter of the Governor's Secretary and Gourlay's comments. No mention is made of Nos. 4 and 5; but Nos. 6 and 7 were mailed to Hon. John Neilson, September 28th, 1842, appearing finally in the "Chronicles of Canada" (Nep. No. 8, pp. 78, 79). He put up for advertising purposes in May, 1839, a placard:

"The Banished Briton,  
Appellant and Mediator,  
Profunda Cernit."

Nep. No. 7, p. 69.

In the Parliamentary Library at Ottawa there were once Nos. 1, 2 and 3 of this "Banished Briton Appellant and Mediator," published at Cleveland, 1836, 8 vo.: but none of these can now be found. (Information kindly furnished by Mr. L. P. Sylvain, Lib. of Parlt.)

(79)—I have not seen this pamphlet, but all its contents are to be found in one or other of the numbers of the Neptunian. See the last note.

(80)—Nep. No. 4, p. 48.

(81)—Nep. No. 2, pp. 18, 19.

(82)—Nep. No. 2, pp. 20 sqq; the letter to Hume just mentioned will be found in Nep. No. 2, p. 16 note; those to Mackenzie in Nep. No. 2, pp. 14, 17; Mackenzie's in Nep. No. 2, p. 16.

(83)—Nep. No. 2, p. 23.

(84)—Nep. No. 2, p. 26, note;

"A Durham ox came o'er the sea  
And landed at Quebec;  
Canadians all were on their knee  
And instant at his beck."

And so on for six stanzas, the last reading:

"And now the truth is wholly out  
Nor need we any longer doubt  
So all the world may fairly laugh  
To think the Ox was but a Calf."

(85)—Nep. No. 2, p. 28.

(86)—Nep. No. 7, p. 72. This doggerel consists of eleven stanzas of four (three of five) lines each; it is a "skit" on the Rebellion of 1837-38.

"A monkey once sprung up aloft  
And gibbered in the trees,  
The bears and wolves began to dance  
And bum went all the bees.  
A shot or two being fired at Pug  
Away the creature scampered,  
And truly it made unco speed  
With bulk being little hampered."

(The Monkey was William Lyon Mackenzie, the allusions to his diminutive size are obvious). Then follow verses devoted to Navy Island, Van Rensselaer, Allan MacNab, Sir Francis Bond Head, and the effusion closes:

"Britannia's flag you now may see  
From Drummond's Hill to Fort Erie,  
While thousands range around,  
With shot and shell the trees they fell  
And make a mighty sound."

Nep. No. 5 contains the story of the proceedings in the House, etc.

(87)—Nep. No. 7, pp. 69-71.

(88)—Nep. No. 7, p. 71.

(89)—Nep. No. 6, p. 57 (note). I have not seen this publication; but it is manifest that its contents all appear in one number or the other of "The Neptunian." (See Note 78 to this Part.)

(90)—Nep. No. 3, pp. 33, 34.

(91)—This "Banished Briton No. 3" I have not seen, but its contents sufficiently appear from Gourlay's description. The two sets of verses are "The Monkey War," part first, already referred to, and "The Monkey War," part second. This consists of eleven stanzas of four lines (and one of five) each, and is a satirical account of the later events of the Rebellion:

"Good lauk, what next!—a boat unfixed  
The little Caroline  
Cut from the ice; and all so nice  
Now on the Lake doth shine!"  
'A spec! a spec! a glorious spec,'  
The Buffaloes roar out,  
Victoria's wealth is all our own  
And Canada, no doubt,"

Malden, Pelé, the Short Hills, Prescott, Windsor, all are mentioned; and the poetical effusion ends with an apostrophe to Jonathan:

"But when we think upon the thing  
That led you to the war,  
A monkey vile, chock full of bile,  
It beats the Globe by far.  
The Monkey first, made you to thirst  
For acres and for dollars,  
But now in cage it spends its rage  
On Uncle Sam's tight collars."

The last is, of course, a delicate allusion to Mackenzie's imprisonment for 18 months in Monroe County Goal for setting on foot, etc., a warlike expedition against Canada. The verses are to be found in Nep. No. 7, p. 72; the story of the visit to Toronto and "The Banished Briton No. 3" is in Nep. No. 3, pp. 33-39; pp. 39, 40 contain an invective against the poor Secretary, Thomas C. Murdoch, who wrote the letter for the Governor.

(92)—Nep. No. 10, p. 87. He tells us this in his extraordinary account of insomnia which will be touched upon later.

(93)—Nep. No. 6, p. 57.

(94)—Nep. No. 6, pp. 58-63; see Journal Leg. Ass., 1841, pp. 242, 259, 403, 567, 633, 640, Appendix T. T.

(95)—Nep. No. 3, p. 40.

(96)—Nep. No. 10, p. 87.

(97)—Nep. No. 7, pp. 66, 68.

(98)—Nep. No. 8, pp. 73, 77 (note).

(99)—Nep. No. 8, p. 73; the correspondence with the Duke of Wellington is to be found in Nep. No. 11, pp. 96-103.

(100)—Nep. No. 8, *passim*.

(101)—Nep. No. 8, p. 79 (note).

(102)—

Chronicles of Canada  
Being  
A Record  
of  
Robert Gourlay, Esq.  
Now  
Robert Fleming Gourlay  
"The Banished Briton"  
"Man is a Recording Animal"  
No. 1  
Concerning  
The Convention and Gagging Law  
1818  
  
Mr. Gourlay's Arrest and Trial,  
&c., &c., &c.,  
Printed and Sold  
at the  
"Journal" Office, St. Catharines.  
Sold also by  
Carter & Bentley, Kingston,  
1842.

It is a paper bound pamphlet of 40 pages 8 vo; the final note is dated "St. Catharines, September 28th, 1842." I shall have occasion to mention a second edition printed at Ingersoll in 1857.

(103)—Nep. No. 10, pp. 89-94, 96. The "Fable" is unintelligible to me; and the explanation, p. 36, does not clear up the perplexity.

(104)—Nep. No. 1, pp. 1, 2.

(105)—Nep. No. 11, p. 103.

(106)—Nep. No. 14 *passim*. Proceedings Leg. Assembly Canada 1843, pp. 177, 193, Addresses (29).

(107)—The denial of this right on the part of Britain was one of the reasons alleged for the war of 1812; the Treaty of Ghent did not settle it; nor was Daniel Webster successful in obtaining an acknowledgment from Ashburton in 1842; it was not admitted by Britain until 1870. Gourlay's interest in the question arose from the threats on either side during the war of 1812 to carry which into effect would have involved the slaughter of many innocent persons.

(108)—Nep. No. 34, p. 480.

(109)—Nep. No. 35, pp. 482, 485; his illness at the Bridge of Allan (mentioned below) is referred to in a letter from January 30, 1851, published in the *Hamilton Spectator* and *Huron Signal*.

(110)—Nep. No. 36, p. 491; *Journals Leg. Ass.* 1844-1845, Vol. 4, p. 256.

(111)—Of "The Neptunian", Morgan in his *Bibliotheca Canadensis* (1867) has this to say: "The Banished Briton and the Neptunian, Boston, 1805, 8 vo."

It is quite certain that the publication of *The Neptunian* did not begin until 1843; the first number (which is the only one to bear the title "The Banished Briton and Neptunian") contains a petition to the Massachusetts Legislature dated February 20th, 1843, and a note dated in the following month.

Gagnon "*Essai de Bibliographie Canadienne*" (1895) says: "The Banished Briton and Neptunian being a record of the life, writings, principles and projects of Robert Gourlay, Esq., now Robert Fleming Gourlay . . . Boston, printed by Samuel N. Dickenson, 1834, No. 1, 16, p. Nos. 2 à 12, 112 p. in -8" and adds (I translate): "This curious and interesting publication . . . should, it is said, contain 38 numbers to be complete, although Sabine thinks that only 21 were published. . . ."

Kingsford, *Hist. Can.*, Vol. 9, p. 238 note, has not seen any number beyond No. 26.

The Toronto Reference Library has the first 16 numbers and No. 39 bound in red morocco with an autograph presentation by Gourlay to Sir Charles Metcalfe (No. 39 has in his handwriting "a gift" on its first page—this appears also in my own copy); also No. 39 in pamphlet form, separate.

The Parliamentary Library at Ottawa has one volume containing only the following numbers: 1 to 26; The Archives at Ottawa, Nos. 1 to 12, 16, 24 to 26, 30 to 34, 36, and 39.

The Library of Congress does not appear to have any number of "The Neptunian" in that form, but it has what is apparently an enlarged edition of No. 27. It was published in 1844, and is a pamphlet entitled "Plans for Beautifying New York and for enlarging and improving the City of Boston" (Card No. 12—3596). The author says in the preface ("Advertisement") as follows:

"Last year, I handed about a small pamphlet calling attention to the improvements of the Common,—a number of 'The Neptunian,' now included in this; and, by and by, was led to conceptions of vast importance, which I confidently trust may be gravely considered, and speedily acted on. But, the whole is subsidiary to higher objects still; and, in concert with the great purpose of my life, bettering the condition of the laboring classes, which has brought me, twice, to this side of the Atlantic."

This volume is also in the Archives at Ottawa, the copy there being graced with Gourlay's autograph, "To Captain Higginson/with/Mr. Gourlay's Compliments/Nov. 18, 1844." The title is "Plans/for/beautifying New York/and for/Enlarging and Improving/The City of Boston/Being Studies to Illustrate the Science of/City Building/By Robert Fleming Gourlay (Coat of Arms with Motte, Profunda Cernit) 'Go to, let us build a City,/Boston/Published By Crocker & Brewster/and/Saxton Peirce & Co./1844.'"

The Legislative Library, Toronto, has no copy of the *Neptunian*. My own copy is in two volumes, the first containing Nos. 1 to 26; the second Nos. 27 to 38, both 8 vo., bound in paper, and entitled:

“The Banished Briton  
and  
Neptunian,  
Being  
A Record.  
of the  
Life, Writings, Principles and Projects  
of  
Robert Gourlay, Esq.,  
now  
Robert Fleming Gourlay  
(Coat of Arms)  
Profunda Cernit  
(Quotation from Job xxix. and xxx.)  
Boston

(Name of publishers erased, but visible under the erasure appears “Sold by Redding  
& Company/No. 8 State Street./)  
1843

S. N. Dickinson, Printer.”

The covers of both volumes are alike, showing that the cover for the first volume, dated 1843, was used for the second volume, which was not completed till 1845. I have also No. 39, making the series complete—this is probably unique.

In view of the lavish way in which The Neptunian was distributed, there must be many copies in Upper Canada; a copy more or less imperfect turns up from time to time—a friend in Niagara-on-the-Lake lent me a very defective copy a year or so ago.

(112)—Leg. Assy. Journals, 1846, Vol. 5, pp. 76, 81, 191, 196, 263, 266, 342.

(113)—The Mound Improvement  
With  
A Plan and Elevation  
also  
An Appendix  
Containing  
Correspondence with Dr. Chalmers, the  
City Authorities, &c., &c., on  
the Same Subject,  
Concluded with a Review  
by  
Robert Fleming Gourlay  
Edinburgh  
Adam & Charles Black  
North Bridge  
MDCCCL.”

A Crown 8 vo. of 16 pages sold at a shilling. The title sufficiently expresses the object and contents; a copy with an autograph letter (June 14th, 1850) of Gourlay's is in the Toronto Reference Library.

- (114) - "Canada and Corn Laws  
or  
No Corn Laws No Canada  
by  
Robert Gourlay, Esq.,  
now  
Robert Fleming Gourlay . . . .  
Edinburgh  
James Wood, 88 Princess Street  
MDCCCLII."

This is a pamphlet of 12 pages, Crown, 8 vo.; the arguments have a familiar ring; they are the same in the times of Gourlay and of Chamberlain and our own. The date of his accident is given by himself in the publication mentioned in Note 118, at p. 13.

(115)—Journals Leg. Assembly, 1856, Vol. 14, pp. 228, 321, 629, Addresses 33.

(116)—Journals Leg. Council, 1857, Vol. 15, pp. 470, 555; see also Jour. Leg. Ass. (1857), Vol. 15, pp. 621, 704, 716.

- (117)— "Chronicles of Canada,  
Being  
A Record  
of  
Robert Gourlay, Esquire,  
now  
Robert Fleming Gourlay  
No. 1  
Concerning the Convention and Gagging Law  
1818  
Mr. Gourlay's Arrest and Trial, &c., &c., &c.,  
Second Edition Abridged  
Ingersoll C.W.  
Reprinted at the "Chronicle" Office  
1857."

8 vo., 40 pages, bound in green paper, not very rare. In this edition Gourlay informs us that he had in June, 1856, recovered 49 copies of the first edition published in 1842. These came to hand most opportunely, as he was enabled to give 30 copies to Members of the Legislature. In this edition he reprints all important matter of the former, and he "will say that more important matter for reflection never was laid before the Canadian Public."

- (118)— "Mr. Gourlay's Case  
Before the  
Legislature  
With His  
Speech  
Delivered on Wednesday, July 1, 1858,  
In Two Parts,  
Toronto,  
Printed at the Globe Book and Job Office,  
1818."

An 8 vo. paper bound, of 29 pages; it really has four parts. The proceedings in the House are to be found noted in the Journal Leg. Assembly, 1858, Vol. 16, pp. 233, 498, 742, 765. June 2nd Mr. Foley obtained "leave to bring in a bill to declare the unjust sentence and banishment passed upon Robert F. Gourlay null and void." The bill was read the first time, the second reading ordered for the 7th, but nothing more is heard of it. Jour. Leg. Ass. ut supra, p. 587.

(119)—Jour. Leg. Ass. (1858), Vol. 16, pt. 2, pp. 946, 1038, Address No. 35.

(120)—Jour. Leg. Ass., p. 371; "Mr. Gourlay's Case," p. 16.

(121)—Jour. Leg. Ass. (1859), Vol. 17, p. 19.

(122)—Jour. Leg. Ass. (1864), Vol. 23, p. 117.

(123)—Nep. No. 9, pp. 84-88; Nep. No. 11, p. 98.

See my article in the "New York Medical Journal," January 1st, 1916, at pp. 8 sqq., "An Old Case of Chronic Insomnia." I add extracts from letter sent me by a medical man of experience and ability on this curious subject:

"Gourlay was quite in error; he slept much more than he thought. It should be borne in mind that some very active persons can do on a short allowance of sleep—Peter the Great, of Russia, is reputed as sleeping only four hours a night during his most energetic years. It is a well-known experience that careful nurses will give an account of the amount of sleep patients obtain quite different from that given by the patients themselves.

"The late Professor George Paxton Young once told me of an experience of his own. Shortly after the sad death of Miss Brown—Hon. George's sister—he was travelling. At the hotel he retired one night at 11 p. m.; some time afterwards he turned in his bed and said to himself, 'I have not yet got to sleep.' He looked at his watch and found that it was six in the morning, and that he had, therefore, had his usual amount of sleep."

(124)—Nep. No. 9, p. 84.

(125)—It should perhaps be said that notwithstanding Gourlay's emphatic protest, a pardon had passed the Great Seal May 14th, 1857; and he was quite helpless, as no subject can refuse such an act of grace on the part of the Crown.

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## THE HERALDRY OF CANADA.

BY GEORGE SHERWOOD HODGINS

The science of heraldry is an example of evolution. The word "Esquire," often loosely applied, was once the designation of the shield-bearer or attendant to a knight. The rank implied was thus a military one, and next below that of knight. The shield was of prime importance for defence in war as fought in olden days, often as a series of personal encounters, and upon the shield was painted some device by which the chevalier or mounted man was known by his followers on the field of battle. He came with helmet on his head, but his features were often hidden behind a closed visor of polished steel.

The shield or escutcheon, associated, as it originally was, with war, now tells the story of a nation's peaceful progress, and the change has come about so gradually and so imperceptibly that no one associates the products of a fruitful land, when shown on the erstwhile warrior's shield, with aught of war, or sees anything incongruous in the escutcheon of the knight bearing the emblems of prosperous industrial life. "The boast of heraldry, the pomp of power," do not now belong exclusively to the armed camp, nor are they to-day associated only with "the pomp and circumstance of glorious war."

The art of heraldry had for its primary object the identification of the mailed warrior, and a device was worn on the surtout, or cloth jacket, over the steel armour, hence it was the "Coat of Arms." The device was also painted on the shield. Later it became the means of recording national success in war, when placed on the shield of a victorious commander, preserving the traditions of illustrious houses, and still later, the signalization of the union of noble families, in the days when writing was difficult and the art of printing was unknown.

The modern use of heraldry is simply a symbolical distinguishing of families and individuals from other families and individuals, just as a name differentiates them. Many errors and misconceptions have been caused by some writers asserting or implying that the possession of a coat of arms makes a man more honorable than some one who has not a coat of arms. This is distinctly the German notion, and is not the English view. The German idea carried to its logical conclusion tends to produce absurdities in social life, while the more manly English conception is not incompatible with dignity and common sense.

The heralds of early days appealed powerfully to the imagination, to the love of display and to the honor arising from bold challenge in the lists and before the lowering front of war. It brought forth men like those of Cæsar's legions, formed for valorous achievement by "Rome's thrice hammered hardihood in arduous things."

Originally the device on the shield, it is asserted by some notable authorities, was the cross-brace or the heads of iron rivets, or a stiffening bar, painted in bright colors to stand out conspicuously from the ground color of the shield. It may be that the cross of St. George or of St. Andrew were at first the skeleton frame of the shield, like the "upright" and the "bow-top" pieces of a boy's kite. This may or may not be the correct explanation of heraldic charges, but the crosses later acquired a religious significance. The chevron, the bar, the pile, the pale, and the bend are the other principal "ordinaries" of the shield.

As time went on, and when the armourers' craft had advanced so that what stiffening pieces there might have been were not conspicuous on the shield, the entire "field" or broad surface of the escutcheon was left clear for more elaborate designs, in which the representations of birds, beasts, the weapons and the war-gear of the knights were placed. In heraldry when beast or bird appeared it was not true to life. Some characteristic was exaggerated in form or color. The talons of the bird of prey, the tongue and claws of beasts, the attitude of body, the position of the head or the watchful eye, all had heraldic significance apart from any attempt to follow nature or depict a living form.

When the herald's art turned to more peaceful objects, arms of dominion came into being. A kingdom or feudal lordship was often represented by the arms of an early king or patron saint, and these were adopted by succeeding sovereigns instead of their own arms. Thus national or territorial arms appeared. A pamphlet recently published in Paisley by Messrs. Thomson and Bell, on "The Lion Rampant," 1912, says that as personal leader of a nation's armies, the King would naturally be in a special, though not an exclusive degree, the bearer of national arms. From such arms the step to the evolution of county or city arms was logical. Corporate arms have now a legal significance when used on the seal of a commercial company.

The arms of the provinces of the Dominion of Canada are, in a sense, territorial arms. In each there is a device which indicates the fealty of the new world province to the land from which the early British settlers came. This device has reference to the sovereignty of Great Britain. George V. is King of Ontario and all the other provinces as much as he is King in the County of Surrey.

Just here an interesting fact may be noticed. On the great seal of Canada there is the Latin superscription: "*Georgius V. Dei Gratia Britanniarum et Terrarum Transmarinarum quae in Ditione Sunt Britannicae, Rex, Fidei Defensor, Indiae Imperator; in Canada Sigillum.*" Translated it reads: "George V., by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India—The Seal in Canada."

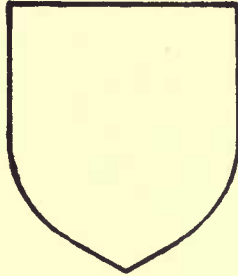
The titles of the late Queen Victoria in the Latin tongue read: "Victoria Dei Gratia Britanniarum Regina; Fidei Defensor; Indiae Imperatrix." Freely translated, she was styled, of the British Isles (the word Britanniarum including Ireland), Queen, Defender of the Faith, Empress of India. By Imperial Statute 1, Edward VII., chapter 15, the Royal title was made to include the British Dominions beyond the Seas. This Act, which bears date of 17th August, 1901, reads: "Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows: "It shall be lawful for His Most Gracious Majesty with a view to the recognition of His Majesty's Dominions beyond the Seas, by His Royal Proclamation under the Great Seal of the United Kingdom, issued within six months after the passing of this act, to make such additions to the style and titles at present appertaining to the Imperial Crown of the United Kingdom and its dependencies as to His Majesty may seem fit."

There is in the enacting clause of this and all the Imperial Statutes the necessary advice and consent of Parliament, and in the wording of the stately superscription of the Great Seal there is the recognition of the unity of the great Empire of which Tennyson so truly says:

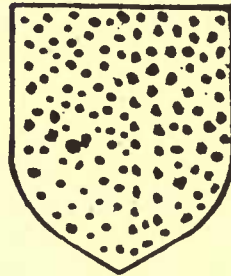
"Welded each and all into one Imperial whole;  
One with Britain heart and soul—one life, one flag, one fleet, one throne."

The Canadian coats of arms are divided across the shield so that each has two, and some three, distinct spaces on which the devices or "charges" are placed. The upper third of the shield is called the "chief," the central third the "fess," and the lower part the "base." In all but two, the "fess" is not present, showing only the body of the shield and the chief. In heraldry the color or "tincture" of the field is

ARGENT



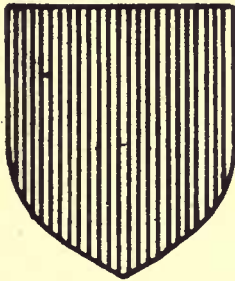
OR.



SILVER

GOLD

GULES



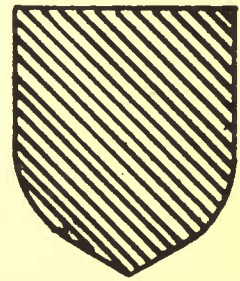
RED

AZURE



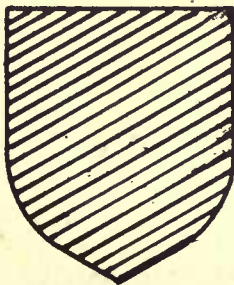
BLUE

VERT



GREEN

PERPURE



PURPLE

SABLE



BLACK

HERALDIC TINCTURES SHOWN BY LINES  
TO INDICATE COLORS.

given first, and the concise statement of the devices on the shield is called the "Blazon of Arms" and each item follows in regular order.

The colors or tinctures of heraldic shields are Azure, Blue; Gules, Red; Vert, Green; Purpure, Purple; Sable, Black. "Proper" is the natural colors of the objects represented. The metals are spoken of as Or, for gold, shown as yellow. The word is derived from the French Or, gold, and the Latin aurum may have suggested the phonetic spelling. Argent is the word for silver, usually shown as white. The "field" is the space upon which the "charge" or object depicted is placed. Our illustrations show the colors as indicated here.

Many of the brooches, pins and souvenirs of Canada sold in jeweler's shops are incorrectly made and wrongly colored, so that much of their historie and heraldic significance is obscured or lost.

ONTARIO, the province taking its name from the great inland sea that lies along its southern shore, Ontariyo, the beautiful lake; a Mohawk word, with long drawn accent on the "i." The province was granted a coat of arms by Royal Warrant dated May 26, 1868. This was the year after confederation, and the "blazon" in heraldic language runs:

"Vert, a sprig of three leaves of Maple slipped Or; on a chief argent, the cross of St. George."

Translated the meaning is, that the color of the shield is green. This, it has been said by some, was in compliment to the many settlers of Irish origin who first peopled what was once called Upper Canada. This is most unlikely, as green is not the heraldic color for Ireland; it is blue in the royal arms. The popular idea has no doubt arisen from the fact that Ireland has been poetically called the "Emerald Isle." The verdure of this favored land is caused by its being the recipient of a very large portion of the prevailing westerly winds which sweep over the Atlantic, and, with the effect of the Gulf Stream, bring moisture, and so produce mild climatic conditions favorable to vegetation.

The sprig of three leaves of Maple, slipped, indicates that the leaves each with a stalk are joined together, as indicated by the word sprig. The tincture is that of the autumn leaf, gold. The chief holds the cross of St. George. In English heraldry this is the red upright cross on a white or silver ground. This cross is seen conspicuously on the white ensign of the Royal Navy. The cross of St. George, and that of St. Andrew, seen in the Union Jack, were, according to Mr. A. C. Fox-Davies, not originally national emblems, but were "fighting" devices to accord with the war cries of the armies of these countries. At the present time, however, they are practically national symbols, and the cross of St. George on Ontario's shield, and as there used, is the territorial device of the Sovereign.

The origin of the Maple Leaf as the floral emblem of Canada practically dates from 1860, when Edward VII., then Prince of Wales, visited this country, although the first actual and authoritative use of the Maple

Leaf was by the Imperial Government in 1859. A representation of this device was placed on the regimental colors of the 100th Regiment. This corps was raised in Canada and was called the "Prince of Wales Royal Canadian Regiment." The colors were presented in England by the Prince in January, 1859.

The maple leaf, however, was identified with Canada as far back as the war of 1812. In that war the British and Canadian soldiers, when fighting in the woods, often partially concealed their scarlet uniforms by cutting slits in the breasts of their tunics and inserting leaves and sprays of maple. In moving forward they were thus in a measure protected and thereby secured some advantage, like the victorious army that moved against Macbeth, when Birnam Wood did come to Dunsinane.

The first use of the maple leaf in Canada was at the reception of the Prince of Wales (Edward VII.). A procession was being provided for, in which the various national societies had been requested to take part. A meeting was held in Toronto on the 21st of August, 1860, to arrange matters, and a motion was introduced by the late Dr. J. H. Richardson, at one time lecturer on anatomy in the Toronto School of Medicine: "That all native Canadians joining the procession, whether identified with the national societies or not, should wear the Maple Leaf as an emblem of the land of their birth." This motion, seconded by Mr. F. H. Howard, was adopted. From the account given in the *Toronto Globe* of 8th September, 1860, we learn that the Canadians took part in the procession, some wearing silver maple leaves and others those supplied by nature.

Thus the floral emblem of Canada had its origin, and these leaves, which were even then turning to the golden hues of autumn, have in this color been accorded a place on the escutcheon of the Province where they were first used. The maple leaf and the maple wreath have since received official sanction (it is the leaf of the silver maple that is usually



### ONTARIO

taken as our emblem), and Ontario bears on its escutcheon the memory of those early autumn days when, as expressed in happy phrase by the Rev. John McCaul, then President of Toronto University: "The hope of the Province salutes the hope of the Empire."

On February 27th, 1909, a second Royal Warrant gave Ontario a crest, supporters and motto. The warrant reads:

Crest. "Upon a wreath of the colors, a bear passant, sable."

This means that the crest-wreath in green and silver, those being the tinctures of the body of the shield and of the chief. On this wreath a black bear is shown walking with his fore-paw raised, the head being in profile. The crest-wreath was in olden days two twisted strands of silk of the same colors as the principal tinctures of the shield, and placed where crest and helmet joined. The supporters are described thus: "On the dexter side, a moose, and on the sinister side a Canadian deer, both proper."

The dexter side of shield is at the right hand of the man behind it, and the sinister is the side near his left hand. The sinister supporter is described as "a Canadian deer"—the common deer of the Canadian woods. The motto is in Latin and reads: "Ut Incepit Fidelis Sic Permanet." This freely translated means: "As loyal she became, so shall she ever remain."

QUEBEC, the older and the lower of the "Canadas," has a coat of arms rich in historic significance. The Royal Warrant of May 26, 1868, describes the arms in heraldic language thus:

"On the fess gules, between two fleur-de-lis in chief, azure, and a sprig of three leaves of Maple, slipped, vert, in base; a lion passant guardant Or."

To put this in plain language, there are two blue fleur-de-lis on a golden ground in the chief or upper third of the shield. The fess is the middle third and on it is a gold lion like that in the Royal Arms, placed on a red ground, and below it, or "in base," which is the lower third of the shield, there are three green maple leaves with stalks, conjoined like those of Ontario, but here they are green leaves on a golden ground.

The similarity of the form of the three maple leaves in the Ontario and Quebec "coats" connects Upper and Lower Canada, these being the original territory from which the confederated Dominion takes its name—Canada. The green leaves of Quebec are in the color of spring, while the gold leaves of Ontario indicate the autumn. The Maple Leaf is to Canada what the Rose is to England, the Thistle to Scotland, and the Shamrock to Ireland. The Maple Leaf appears on the coinage and postage stamps of Canada, and where a wreath is authorized, as on a Governor's boat flag, in Canada, the Maple wreath is used instead of the laurel which appears on other British colonial flags. The Maple Leaf forms the badge of the Queen's Own Rifles, and it is on the accoutrements of other Canadian regiments.

The fess or central portion on the Quebec shield shows a gold lion on a red ground. This is practically one of the lions out of the Royal Arms. This lion is described as "passant guardant." It is in the act of walking, with fore-paw raised. The attitude is "passant." The head is turned toward the beholder, and is described as "guardant"; the ani-

mal is on the watch and looks outward from the shield as if to observe his surroundings before he takes another step. The lion as here used denotes the King's sovereignty in the Province of Quebec, and in this sense it is an example of the territorial device or arms of dominion.

Two fleur-de-lis in blue, upon a golden ground, in chief, denote the French origin and early sovereignty over the province. The fleur-de-lis is probably one of the oldest emblems in existence. There has been much difference of opinion as to whether the emblem represented the lily flower of white iris, as its name implies, or whether its origin was but the heraldic representation of an arrow-head or a French battle-axe, a weapon sometimes made with two convex cutting edges, set on a central shaft pointed at the top. Some authorities have thought it represented a spear-head with hooks, like an English "bill," which was a spear-head with hook attached for tearing or breaking chain mail, or dragging down the shield of an antagonist. The fleur-de-lis, if such had been its origin, must have represented a spear-head with hook on either side, bound together by a flattened iron ring.

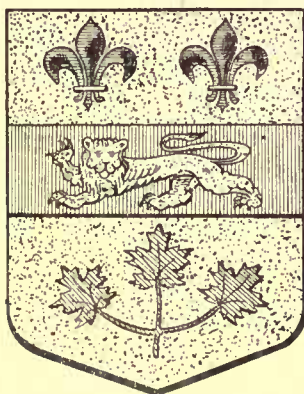
The fleur-de-lis, however, is much older than these weapons, and has been found sculptured on the temples of India and Egypt. There the fleur-de-lis typified life and the resurrection and was an emblem of the god Horus. It has been found on Etruscan vases, and in fact, history gives no clear record of how it came to be associated with the royal house of France.

Mr. A. C. Fox-Davies, in one of his works on heraldry, refers to an old legend that at the baptism of King Clovis of France, the Virgin sent him her emblem, the lily, as a mark of favor. He points out that the names "Clovis," "Lois," "Loys," and "Louis," are identical. "Loys" was the signature of the French Kings until the time of Louis XIII. "Fleur-de-lis" is likely a corruption of "Fleur-de-lois." As the finial of a sceptre or a coronet decoration, it can be traced back to the fifth century. Previous to 1376 the royal fleur-de-lis was powdered on the King's shield, that is, as many were put on as the shield would hold. Charles V. of France reduced their number to three, in honor of the Trinity.

It is, however, as the accepted emblem of France that we have to do with it. The French fleur-de-lis was gold on a blue ground. The three shown on the French shield were the "golden lilies." Macaulay, in his "Battle of Ivry," thus alludes to the French arms:

"Now, by the lips of those ye love, fair gentlemen of France,  
Charge for the golden lilies, upon them with the lance."

These golden lilies have been changed to blue in the arms of Quebec, and the blue ground of the ancient shield has become gold in the arms of "New France." The story of the change of allegiance is here told by



### QUEBEC

the counterechanging of the colors. The honor of Montcalm and his brave compatriots is ever before us in the form of the fleur-de-lis, which they so nobly fought to preserve, while the tincture of the lilies was changed with the new sovereignty in 1763.

There is no monument in the world like that to Wolfe and Montcalm, as it stands at Quebec to-day. No other bears the names that speak with equal honor of warlike victory and defeat. During the Peninsular campaign, after the battle near Corunna, in which Sir John Moore was killed, Marshall Soult desired to erect a monument bearing an inscription written by himself, extolling the valor of his brave but fallen foe. A Spanish general, the Marquis de la Romana, carried out Soult's wishes so far as to set up a temporary monument on the field. In 1811, Sir John Howard Douglas, acting for the Prince Regent, made permanent, on Spanish soil, the monument to Moore. The inscription in Latin is: "Joannes Moore Exercitus Britannici Dux Praelio Occisus A. D. 1809." Translated it says: "John Moore, the leader of the British Army, fell in battle, 1809." The English inscription on the outer side of the tomb reads: "In memory of General Sir John Moore who fell at the battle of Elvina while covering the embarkation of the British troops, 16 January, 1809."

In this instance the chivalrous spirit of the French was conspicuously shown, but it was reserved for Canada, among all the nations of the earth, to perpetuate, with equal reverence, the names of the two opposing commanders, by erecting, in 1827, a unique memorial which is the outward symbol of the harmony of the two peoples, while it suitably preserves the honors of war: "Mortem Virtus, Famen Historia, Posteritas Dedit."

Thus the counterechanged colors on the "Chief" are significant of the altered government of the land, and are in strict accord with heraldic custom and the amenities of international usage. The reversing of the

colors is, in fact, a delicately put heraldic courtesy to France. From out the long grim struggles of the past grew that deep and mutual respect, as,

"From each other's throat we wrenched valour's last reward,  
That extorted word of praise, gasped 'twixt lunge and guard."

The single monument to Wolfe and Montcalm stands near the base of the glacis that leads to the citadel at Quebec, and commemorates the struggles of the two nations, now happily joined in the bonds of peace. The heroes whose names are cut in monumental stone are typical of the nations themselves, and the spirit of the epitaph may with justice be applied to all who there so gallantly fought for the lily and for the rose. The inscription to Wolfe and Montcalm translated reads: "Valor gave a common death, History a common fame, and Posterity a common monument." So it was, and History, with her impartial judgment and her enduring chronicle, e'er she closed the record of the heroic struggle for the retention of French sovereignty on this continent, ever recalls the memory of those stirring days, and in the matchless blazon of renown wrote Peace with Honor, that the world may know.

NOVA SCOTIA was ceded to Great Britain after the treaty of Utrecht in 1713. It was settled by a colony of Scotchmen in 1622. They gave it the name, in Latin, of New Scotland, and out of the territory originally belonging to it were formed at a later date New Brunswick



NOVA SCOTIA

and Prince Edward Island. The arms of Nova Scotia, as given by Royal Warrant of 26th May, 1868, are:

"Or, on a fess wavy azure, between three thistles proper, a salmon naiant argent."

Thus the province of New Scotland has a shield of gold like that of Scotland itself. Sir Walter Scott thus refers to the gold ground of the Scottish shield:

"The dazzling field, where in proud Scotland's royal shield  
The ruddy lion ramps in gold."

On Nova Scotia's golden shield three thistles are shown in their natural colors. The wavy fess is blue and bears a swimming silver fish. This is in allusion to the fishing industry, and the salmon in the act of swimming is placed in a horizontal position, thus showing it to be alive and free. The color of the fess indicates the blue waters in which it thrives and the wavy outline of the fess indicates the ripples on the water or the winding of the rivers as they flow onward to the sea.

A monument to Edward VII. exists near Sydney, C. B., in the Province of Nova Scotia. It is a memorial of the late King's visit to Canada, as Prince of Wales. While on his way from Newfoundland the Prince expressed a desire to see Sydney Mines before going on to Halifax. The actual place of debarkation was Indian Cove, ever afterwards called "Prince of Wales Landing." The monument was put up by public subscription, and is a block of light red granite. It bears the inscription "Erected to mark first landing made by H. M. Edward VII., then Prince of Wales, on Canadian soil, July 28, 1860. Unveiled by H. R. H. Duke of Connaught, Governor General, Aug. 5, 1912." Fifty-six years have passed since the Prince landed in Canada, but the sentiments of succeeding generations have not changed.

NEW BRUNSWICK has Royal Warrant for its arms given 26th May, 1868, and in heraldic language they are:

"Or, on waves, a lymphad or ancient galley with oars in action, proper, on a chief gules, a lion passant guardant Or."

New Brunswick was probably named in honor of George I. This English sovereign was also Elector of Hanover. Saxony, Brunswick and Lunenburg were the three duchies of this Prussian State. The arms of

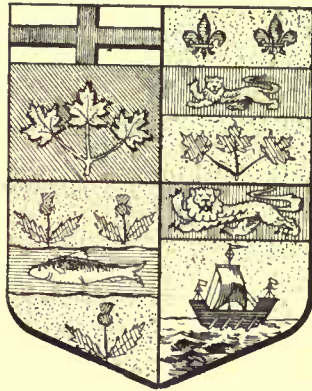


**NEW BRUNSWICK**

Hanover were on the Royal Arms of George I., and those of Brunswick are two gold lions on a red ground, like the three in the first and fourth

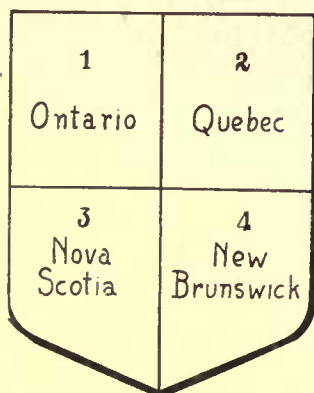
quarters of the Royal Arms. This sovereignty of the King of Great Britain and Ireland is indicated on the New Brunswick "coat" by the gold lion on red, and allusion to the duchy of Brunswick is possibly also intended. The ground color of the shield is gold and on this an ancient galley, on waves, both in their natural colors, is shown. The oars are in the water and are described as being "in action." The galley is an heraldic allusion to the shipbuilding industry which flourished in this province in the early days.

**THE ARMS OF CANADA.** The four provinces already mentioned, viz.: Ontario, Quebec, Nova Scotia, and New Brunswick, formed the Dominion of Canada in 1867. Upper and Lower Canada, often called the "Canadas," gave their name to the confederation and their older names were replaced by those of Ontario and Quebec. The arms of Canada are made up of these four provinces placed "quarterly" on a shield. They are without crown, crest, wreath, supporters or motto. The escutcheon is plain and unadorned. Much popular misconception exists on this



**ARMS OF CANADA**

point, but the fact remains that the plain shield, with four quarters only, is the official and authorized arms of Canada. Other provinces have since joined the Dominion, each has its distinct coat of arms, but the "Arms of Canada" contain the shields of the four provinces which originally formed the confederation. They are quartered, 1st, Ontario; 2nd, Quebec; 3rd, Nova Scotia, 4th, New Brunswick. This order is also prescribed for the Lieutenant Governors of these provinces in the Canadian table of precedence. These four "coats" are carried on one large shield. They are in the quarters, and in this form they appear on the great seal of Canada, and in this form only are they authorized to appear on the red ensign, which with this badge in the "fly" is the merchant marine flag of Canada. Only ships registered in Canada wear this flag at peak or



### POSITION OF PROVINCIAL COATS OF ARMS ON ESCUTCHEON OF CANADA.

stern. They only thus appear on the blue ensign of Canada, which flag is used on vessels in the Government service. In any case it is the original four provinces only that are represented.

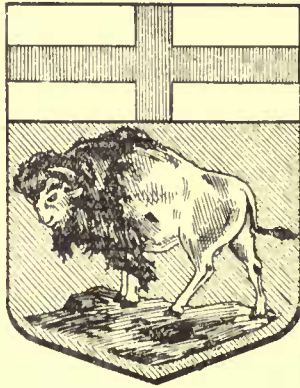
The Province of Ontario has crest, supporters and motto, but these have no place in the quartered escutcheon when Ontario's shield is used in the upper, dexter quarter of the Arms of Canada. There are nine provinces in the Dominion, and all but the four already mentioned are always used separately. The joining of the nine on one shield is entirely unauthorized, just as the use of the merchant marine flag of Canada on land is out of place. The Union Jack is the flag that all British subjects should fly on shore.

The arms of each of the four originally confederating provinces are used separately, each for the purpose for which it was devised, but when placed together on the quartered shield, they form the arms of the Dominion and become the "badge" when on a flag. No crown is used either on the arms of Canada, or on the arms of any of the nine provinces. The boat flag of the Governor General is the only exception. Heraldic devices are subject to the strict rules of the science and have a definite object and a story to tell to him who reads aright. They are not mere fanciful decorative designs, and should not be treated as such. They are concisely described emblems, and any deviation, however slight, from the "strict letter of law" destroys their true significance.

**MANITOBA.** The prairie province came into the Dominion in 1870. It stretches from the 49th parallel up to the 60th, eleven degrees. By Royal Warrant of 10th May, 1905, this province was granted arms:

"Vert, on a rock a buffalo, statant, proper. On a chief argent, the cross of St. George."

The red cross of St. George on a silver field is here the territorial insignium of the King. The "field" of the escutcheon is green, indicating



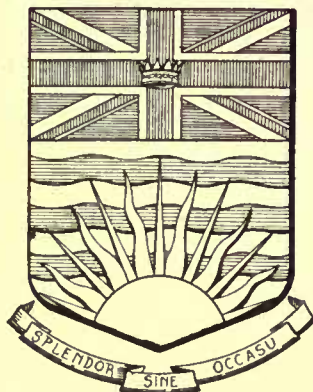
MANITOBA

the virgin soil of the western part of the province, where the wheat region begins. The buffalo and the rock are in their natural colors, of brown and dark grey. The eastern portion is broken and rocky land, and further west the buffalo was often in early days the most conspicuous figure on the wide expanse of rolling plains. The buffalo is known to science as the "Bos Americanus" or American Ox, and his rough and shaggy coat of fur was proof against the cold winters of our western land, and was of great value to man. The gregarious instincts of the herd, their peaceful mode of life, living on what the land produced, may well entitle the buffalo to heraldically represent the hardy race in the Canadian Northwest; the "men of the Northern Zone." In this province is grown the far-famed wheat known as "Manitoba No. 1, Hard." Its power of resistance to moisture is possessed by no other on this continent, and gives to this wheat its world-wide reputation and the just pre-eminence it has attained.

BRITISH COLUMBIA is a sea-coast province. It was originally part of the territory of the Hudson's Bay Company, officially described as the "Honorable Company of English Adventurers trading into Hudson Bay." It was made a crown colony in 1858; Vancouver Island was added in 1866. The province came into the Dominion in 1871, and by Royal Warrant dated 31st March, 1906, the badge of the colony, which had previously been the crown and wreath, was changed to the arms now in use.

"Argent, three bars wavy, azure, issuant from the base a demi sun in splendor, proper. On a chief, the Union device, charged in the centre point with an antique crown, Or."

The motto is "Splendor Sine Occasu." The chief contains the Union device, commonly called the Union Jack, which is the triple cross rep-



### BRITISH COLUMBIA

representing the United Kingdom of Great Britain and Ireland. This is here the territorial sign of British sovereignty. It bears at the intersection of the crosses a gold crown consisting of a fillet from which triangular plates of the precious metal rise. This form of crown is called in heraldry "Antique," and its presence here signifies that British Columbia was in the past a crown colony. This is the most westerly land that on this continent flies the Union Jack.

The base of the shield shows a representation of the sun. Only the upper half of the orb of day appears on the shield, for it is described as "demi." The expression "in splendor" means that rays issue from the sun, which is frequently drawn in heraldry as containing a human face. The book of "Flags, Badges and Arms," issued by the Colonial office in London, shows this demi-sun without the human face. The whole is proper and is of golden hue. The ground of the shield is silver, representing the sea, and upon it are three bars wavy, across the shield. These represent the waves which roll in on the rocky shore. The motto: "Brightness without setting," alludes to the loyalty and prosperity of the people of the province, and is like unto the unobscured glory of the sun which "shineth in his strength." Amid the rocky crags and the eternal hills there lies the mineral wealth of a world, which may almost be described by the poetic words of scripture:

"A land whose stones are iron and out of whose hills thou mayest dig brass."

PRINCE EDWARD ISLAND is the smallest province in Canada. The blazon of its arms, given by Royal Warrant 30th May, 1905, designates it as:

"Argent, on an island, vert, to the sinister an oak tree fructed, to the dexter thereof three oak saplings sprouting, all proper. On a chief gules a lion passant guardant, Or."



### PRINCE EDWARD ISLAND

The island was discovered by the famous explorer Jacques Cartier in 1534, and called by him "Isle St. Jean." It was subsequently taken from the French in 1745, but had been given back. It was ceded to Great Britain by France in 1763, after the fall of Quebec. In 1799 the name was changed to Prince Edward Island, in honor of Prince Edward Augustus, Duke of Kent, father of the late Queen Victoria. Prince Edward Island became a province of Canada in 1873.

Its coming permanently under British rule is typified by the large oak tree with acorns ready to drop and blossoms on its boughs, technically called "fructed." The three small oak saplings sprouting are under the shadow of the sturdy oak. All the trees are in their natural colors. The motto "Parva Sub Ingenti" means "The Small beneath the Great." The motto not only signifies the proximity of the island to the mainland of Canada, which is its natural and strong ally, but by its connection with Canada the tiny island is more than in name under the aegis of protection of the great empire of Britain. The number of saplings probably has reference to the three counties of the province, Kings, Queens and Princes. The oak and saplings are appropriately grouped on an island. The color of the shield, silver, suggests the bright waters by which the island is surrounded. The lion, gold on a red ground, forms the territorial arms of the sovereign. The whole group, oak and saplings, set in silver, is a pleasing picture, and the lines:

"There is an island fair, girt by a Western Sea,"  
might with truth be applied to Prince Edward Island.

**SASKATCHEWAN.** This province, originally one of the Northwest Territories, takes its name from the mighty river that flows through the fertile soil. It was made a province in 1905. The grant of arms was by Royal Warrant of 25th August, 1906, and reads:

"Vert, three garbs in fess, Or; on a chief of the last, a lion passant guardant, gules."

The chief here is again the mark of territorial sovereignty of the King. It is probable that the lion is colored red and the field gold, so



**SASKATCHEWAN**

that for heraldic fitness, the ground color of the shield and of the chief will not "clash," as they would if one was green and the other red. The shield, however, is green, topped with a chief of gold. This is the only example in provincial coats of arms where the "territorial" lion is not gold.

The field is green to indicate the verdure of the prairie land, and on it are three sheaves of grain, arranged as a fess would be placed, that is in a horizontal row across the shield. They are sheaves of golden grain. The word "garb" comes from the French "gerbe," meaning a sheaf, and the French word "garbeur," meaning a kind of thick porridge, is probably derived from the same root.

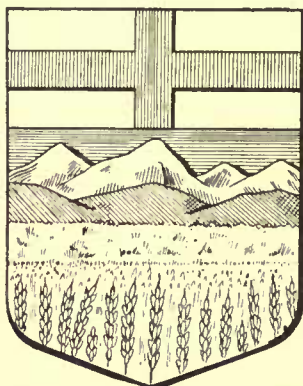
Saskatchewan is perhaps the greatest wheat-growing area in Canada. It extends from the 49th to the 60th parallel of latitude. The natural fertility of the soil is enhanced by the great depth of the frost penetration in winter, which retains in the soil the soluble nitrates which form one of the requisites of plant life. The slow melting of the frozen moisture seldom leaves the earth entirely dry, even in summer, and thus helps to give to this province, and indeed to the whole vast western portion of Canada, the ability to produce the finest grades of wheat to be found anywhere in the world.

ALBERTA, made a province in 1905, has wide prairie lands, great rivers, long ranges of foot-hills under the shadow of the towering mountain peaks. It takes its name from H. R. H. The Princess Louise Carolina Alberta, daughter of the late Queen Victoria. The name was given in 1882 at the time when the Marquis of Lorne was Governor General of Canada. The name of the Princess was of course derived from that of her father, who was the Prince Consort, Albert, whose life was associated with all that was lofty and inspiring. Thus the province perpetuates the name of both. The name Albert means all, or fully, bright.

The blazon of Alberta's arms is more symbolie than strietly heraldic. In the Royal Warrant, dated 30th May, 1907, they are thus described:

"Azure, in front of a range of snow mountains, proper, a range of hills, vert; in base a wheatfield surmounted by a prairie proper; on a chief argent, a St. George's cross."

The chief represents British sovereignty by the territorial arms in which the cross of the patron saint of England appears, red on a silver ground. The beholder, looking at the shield, finds in the foreground a smiling field of golden grain uncreaped and standing in its natural color. Further as the perspective lengthens, the prairie lands stretch out, rich in their native hues. Beyond the middle distance are the green foot-hills, with their undulating outline. In the distance and behind them gleam the snow-capped peaks of the Rocky Mountains, nature's defence line and her fortress, behind which is her sister province of the flaming sun.



**ALBERTA**

The arms of Alberta show at a glance the province as it is. The following lines came to the author's mind as a brief epitome of what is blazoned on the shield that bears the wheat field and the prairies, the foot-hills and the mountain erags. It may be said of Alberta, that great province of Canada, twice the size of the British Isles, the luxuriance of its wheat crop is unsurpassed in the world, and the quality of the grain gives this wheat the distinctive name, "Alberta Red."

"O land where Ceres blesses Proserpina's return,  
 Robed with the joy that softens the Frost-King's visage stern;  
 There Phoebus mounts his chariot, flames o'er the broad domain,  
 Its earth-hid life awakens in fields of golden grain.  
 High o'er the Northland prairies, he guides with mighty hand,  
 The steeds that leap the thunder-clouds, above the teeming land.  
 The sun-god nears the foot-hills, sweeps o'er the vast glaxis,  
 Sealing the snow-crowned fortress, drives westward to the sea."

The heraldry of Canada tells briefly the varied story of each province, and quickens the pulse of the student of history and of the achievements of by-gone days. It summarizes the natural products and the vast resources of each, for those who look upon the land from the standpoint of material progress and strong commercial life. It places before the lover of art a series of designs which can be wrought about with rich adornings. They are capable of decorative treatment without departing from the exact and rigid rules of heraldry. In each there is a marked individuality, but there is also the expression of loyalty to the old land and of promise for the new. The motto of that most distinguished knightly order of St. Michael and St. George, the star of which so many Canadians wear with honor, might well be applied to Canada in her young and growing years, perhaps the future leader in a closer Empire bond—"Auspiciū Melioris Aevi"—"a pledge of better times." Canada even now has gone bravely forward to face and abide with the great Empire, the stern arbitrament of arms:

"Who, forthwith, from the glitt'ring staff unfurl'd  
Th' Imperial ensign, which full high advanc'd,  
Shone like a meteor streaming to the wind."

### III.

#### AN ELECTION WITHOUT POLITICS—1857—

##### I. BUCHANAN.

By J. DAVIS BARNETT.

A warm, excited, two days' election in December, 1857, at Hamilton, in which politics are not in evidence, which drew 2,512 voters to the polls, being the largest number recorded up to that date, offers attraction enough to justify an attempt to recall some of its salient features.

The contest was due to the vacation of his seat (by ill health, when barely 60 years of age) of that stalwart Scotch-Canadian, Sir Allan Napier McNab, after nine successive elections, dating from 1829; he having filled various posts in the House, from copying clerk in his youth to the premiership in 1854. Few—in the history of our Province—have so active, clean and brave a record.

Evidently there was some difficulty among his old supporters in finding a man to run in his place. Eventually Hugh C. Baker was selected. He had been a city alderman, and President of the Mechanics' Institute. The little information I have about him suggests a self-made business agent, who, however, had not been successful in certain stone-cutting, fire, and other companies which he had organized, or used his influence in promoting. A colored orator, in one of the mass-meetings, speaks of him as "an insurance agent with a d——d amount of assurance," which sally of punning drew out roars of laughter. He was then prominent in the management of the Canada Life Company.

Isaac Buchanan, a Scotch-Canadian and wholesale merchant, who had previously run in opposition to McNab, was early asked to stand by 1,871 signers to a petition, whose brevity of specification recommends it. The whole heading is in three paragraphs, of about equal length. The middle and only defining one, reads thus: "Hamilton being a commercial city, and commercial questions being likely to occupy the consideration of our legislature, it is desirable that a leading and influential merchant, a resident of Hamilton, should be selected to represent us."

Buchanan said "yes" to this petition on the 11th November, and Baker, with 1,409 names attached to his requisition, accepts ten days later.

That the candidates of those days had some difficulty in interpreting the finger reading on so poor a dial as an open petition, is seen when we note that there are on the Baker petition 305 more names than he got votes—although the signers pledge themselves to vote; and Buchanan's names are 463 in excess of his votes; but, these signers only pledge themselves to zealous support. There were probably 791 voters among the 1,871 signers of the longer list.

The one, and only, item, in the Baker petition, that throws any light upon what this enthusiastic election turned, is this clause: "We are satisfied that when the public character of Mr. Buchanan is fairly understood by the electors, they will be no parties to his return as their representative, an event which we believe would be most disastrous to the best interests of our city."

Buchanan, in his letter of acceptance, says nothing about government, politics, or party lines, declines to make any personal canvass of the voter, and defines the actual question, that is, the railway situation, thus: "The most serious blow is about to be aimed at the progress of this city by the Great Western running a loop line from Paris (or some other point on that railway west of Paris) to the Suspension Bridge, which will at once cut off Hamilton, and delay, if not quash, the construction of the Great Southern Railway, looked to as the great feeder of the commerce of this city, and I understand that the chief superiority which you expect to find in me, as a candidate, is in my being able to bring greater influence than any other party might be able to bring to the aid of Hamilton."

Baker, in his acceptance, does not even mention the railway question, but does condemn "the now late Provincial Government," in which (as I read the situation) McNab, whom he hopes to succeed, had figured as Premier. So this allusion increases the fogginess of the political situation. In the press it is notable that he is reproached with being a turn-coat.

The legal nominations were made December 9th, and the next day Baker's newspaper, "The Morning Banner," commenting on the decision to hold a poll, said it was an unfair decision by a one-sided returning officer, whose name (Dr. Andrew Craigie) the editor did not give, and went on to assert that in the show of hands there was a majority of 300 for Baker.

The open voting occupied two lively days, December 16 and 17, Buchanan netting 1,408, a majority of 304; and he held the seat until 1865.

Mr. Baker honestly claimed the vote for him was 100 more than any successful candidate had secured in any previous election.

In the opposition newspaper next day it is printed in capitals that Buchanan, when making his speech of thanks to the voters, did not take off his hat. This, Mr. Adam Brown tells me, was not discourtesy, but a characteristic illustration of his ordinary forgetfulness in small things.

It would be necessary to go to other sources than the daily press, printed during this strenuous five weeks, which is my source, to get at the inside politics not evident but surely present somewhere in this struggle. But this much may be said about the then political atmosphere:

The living, acute friction in Canada that developed the cross-cutting of the political wires in '37-8, was far from being got rid of by the home government conceding part of the recommendations made in Earl Durham's Report.

Many of the "Family Compact" remained in power or position, despite the black-listing of their behaviour given in the 7th Report of Grievances by the Select Committee of '35; and they held on to many of their old money-drawing positions and methods.

The dual premiership and dual majority afterwards expected from the nominally wedded provinces naturally resulted in a coalition type of government, weak, nerveless, and full of misunderstandings that seem to have done little but educate those most concerned up to the point of ardently desiring that wider confederation of all the Canadas, which was first introduced, as a platform plank, by the Cartier-Macdonald administration in the year Buchanan took his seat, and was happily achieved nine and a half years later.

The railway situation is much clearer. The Great Western Railway directorate is split into factions, and the English and Scotch sections were not at this time working in unison; and from Buchanan's point of view the ultimate victory for his plans lay with the Board, he having done his part single-handed.

Its road, physically, was a single track through this southern peninsula from Niagara to Detroit, closely paralleling the surface of Lake Erie, except that it made the deep drop, measurable to the eye by the depth of Niagara Falls and the Gorge Rapids (that is, it dropped at one spot down to the level of Lake Ontario), so as to adequately serve Hamilton, whose wharf was then expected to be the western terminus of the Atlantic Ocean steamship run, and its freight house the chief railway distributing centre for the whole of Upper Canada, and much of the North West.

This track was the shortest railway link for American traffic between the States of New York and Michigan. And as its through business showed signs of developing, speculators in railway charters saw their opportunity for securing and peddling legislative privileges for a shorter line that could be built between these termini, and practically at level, by avoiding the drop down into Hamilton. This competitive railway would, it is said, probably be able to double the freight tonnage at about the same haulage cost, and run the passenger trains quicker.

The government did not at first give a through opposition charter, as that, we take it, would have looked too much like antagonizing the G. W. Railway and its influential shareholders. But they granted sectional charters, which could be, and were, financially coupled up.

Buchanan thought that it was wiser for the G. W. Railway to get these charters and then build and run as much of them as made good feeders to their own prosperity, rather than let the outlay be made by

financiers whose policy would be wholly antagonistic to the G. W. Railway, and thus, incidentally, antagonize Hamilton, because they would run all their through business over the high level table-land, leaving that deep-set city about 200 ft. below their traffic working level.

Buchanan secured, at financial inconvenience to his own large, widespread business, all these charters, and kept, or rather offered, them for the acceptance of the G. W. Railway Board at actual cost, plus interest.

In the election he had to persuade the voters that this action was not taken with the object of adding to his own purse the difference between his buying and selling price, but was taken for the good of Hamilton's trade, which he declares—and his life before and after proved—that he had much at heart. Men opposed to him thought and said that he wanted to make sure that the purchase of the rails, and other metal, should be made through the agency of his firm.

He had the opportunity of knowing the transportation question of his day; for, after experience in Montreal, he was the pioneer in wholesale dealing in Toronto as early as 1831, and he afterwards started branches of this then strong business at Hamilton and London.

It is now necessary to go back in this story, a year or more before the election date. In trying to get a majority of the stocks covered by the charters of these new railways, Buchanan had come into collision with Arthur Rankin, M. P. for Essex, who had done some platform work in securing one (or more) of the charters, and who wished to be bought out, and who blocked progress by a chancery suit. If not paid his price, which seemed and still seems large, he threatened to get a through competitive charter, and eventually application was made for the Great South Western Railway to the House, which referred this Bill to the Standing Committee. Each side were represented by legal counsel when the Bill was heard in May, '57.

It is characteristic of these last days of the "compact family" that the applicant was a member of this Committee, the first to address it; and when they selected a sub-committee (to save time in taking evidence), that he was also put on it. He is the only man, I find from reading the Blue Book, that was present at each of the eighteen meetings. The usual attendance at the sub-committee meetings was but 5 or 6, falling one day to 4, a townsman of mine then putting in his solitary sub-attendance. Thus we see that the applicant, whose past methods were under nominal trial, was plaintiff, defendant, and one of the small jury.

It has another humorous phase when we note that the plaintiff's counsel objected to what he called Mr. Buchanan's circuitous mode of answering his cross examination questions, done by Mr. Buchanan to show his motives, opinions and calculations. In other words, anything that would bring out Buchanan's honesty of purpose was—to this lawyer—wholly superfluous and unconnected with the matter in hand, which seems to him to be: Can my client have your recommendation to the House for this gift of a charter?

Bill No. 253 was reported on May 27th, 1857, the eighteen meetings having occupied 21 days. The Legislature had so far a touch of honesty that they added to it an amendment, acknowledging that the late S. Zimmerman and I. Buchanan had spent considerable money on account, and they enacted that the new share list carry part of this legitimate claim. This did not help Buchanan, as it took further expenditure by him to secure this last charter, which is included in what he held at the time of the election, and which the G. W. Railway never did relieve him of.

It is thought that the outlay required to blanket all these charters was the main cause of the money stress that finally swamped the Buchanan estate. It is satisfactory to note that the Bill did not on its face in any way acknowledge the extravagant Rankin claim.

It is noteworthy that at this early date Hamilton was well known as "the Ambitious"; had definite pretensions to being the seat of government, and confidently expected to easily out-distance that respectable village, Toronto, in its wholesale trade. For its people then thought that Niagara (not Laehine Rapids) was the probable limit to direct Atlantic sailings.

Although this election came off 58 years ago, there yet lingers about it a vinuous flavour, for the papers of that time record, without apology, meetings being held at fifteen places where alcohol was sold, viz.: Anglo-American Hotel, British Hotel, Burlington Hotel, Burke's Tavern, Burn's Tavern, Buscomb's Saloon, City Hotel (by Davidson), Edinburgh Castle Inn, Gardiner's Saloon, Masterton's Hotel, McCarthy's Hotel, Price's Saloon, Rob Roy Hotel, White's Tavern, Unzieker's Tavern.

It is only just to add that the farewell to McNab was held in the Mechanics' Hall.

Some of these licensed places had more than one meeting, and gatherings elsewhere were followed by adjournment to a hotel. Of course it is always the newspaper on the other side that makes this record. The price of henchmen (to disturb mass meetings) was said to be "their full of whiskey and a dollar per night."

Hamilton then apparently had a German section, and a meeting at which the speeches were in that tongue was held at Unzieker's Tavern, and Buchanan issued at least one broadside in German script, for I have a specimen of it.

A touch of human pathos comes out in the appeal for the negro vote, now a negligible item we infer from the absence of negroes in that city's streets. Two special meetings were held for them, at Price's Saloon and at Burk's on King St., and a negro porter, Henry Atkinson, was one of the effective speakers at a meeting of from 900 to 1,000 whites.

Buchanan defends himself from the accusation that he wished to sell them back into slavery. (It is noteworthy that on Sept. 27th next year a negro boy was rescued by the colored people of Chatham, C. W., out of the hands of a passenger on the G. W. Railway, who it was believed had kidnapped the boy for the purpose of selling him.) He goes on to say that he held and had expressed in Canada anti-slavery opinions so strong, that had he given them the same publicity when in Charlottown, it would have resulted in his getting a coat of tar and feathers.

To a committee he promises to work for the removal of the grievances they have so long laboured under, and says it would be a proud day when they could take their seat in parliament.

The barber, Anthony Atkinson, took opposite views to the porter orator, and the attempt to put the sentiments of one Atkinson into the mouth of the other shows a lack of scruple that probably has not yet quite disappeared from election tactics.

Both parties were accused of discharging workmen for the offence of having a colored skin, and both often took opportunity to deny the reproach. All this takes place five years before the U. S. declaration of emancipation (1-1-1863).

The demand for separate schools came early, and when heckled on this point, Baker did not commit himself further than to say "that he would go to parliament for the purpose of legislating for the good of the whole, and not for any particular class or creed."

Among the verbal humors of this struggle is the statement that Baker's petition contained "the cod-fish aristocracy," and the then fairly new comment by the Irish navy on the powerful steam shovel, "You may puff and blow, and work as much as you please, but bad luck to ye, ye can't vote."

Although the successful candidate was by some labelled as a Liberal, he evidently disliked George Brown (of Globe and clear Grit fame), so that in one of his speeches we are not surprised that he puts into Brown's mouth this Shakespeare quotation, from Falstaff's graphic picture of his followers: "If I be not ashamed of my soldiers I am a soused gurnet. I have misused the King's press damnably . . . . . A mad fellow met me on the way, and told me I had unloaded all the gibbets, and pressed the dead bodies" [all the old abstract quarrels of the Province, which we had thought dead and buried]. "No eye hath seen such scare-crows. I'll not march through Coventry with them, that's flat."

The only other Shakespearian item in this fun is an adaptation from Richard III., heading the "Toronto Leader's" report from the victorious polls:

"Now is the winter of our discontent made glorious summer by the polling booths;

And all the clouds that lowered on our Isaac  
In the deep bosom of Ontario lie."

Eight verses of rhyme by "D" (whom I have not identified) cover some of the verbal quips that are common in the speeches. The one the Buchanan tribe were most galled by was being called "Sepoys," and that C. J. Brydges, when sitting at an English Board meeting of the G. W. Railway directors, did not defend Canadians from the imputation of treachery, that this then infamous term implied, was his unforgivable offence. Some seemed to think he devised the shameful epithet.

Said "Yilliecrankie" in the Spectator of Dec. 7th: "But, sirs, did ye see Maister Bridgis' wi' his sour, dour, dark, doon look, just like a whippit houn': I hardly kent him, for he used to be a guid lookin' fellow eneuch; an' how he did glum when Maister Buchwanan was gien' it to him . . . . . I'm galousing he's got eneuch o' his "Sepoys" an' that word will ring i' his lug for monie a day."

The Colonist called Brydges the Pons asinorum of the G. W. Railway. The eight verses are headed, HURRAH FOR BUCHANAN!

If a list for Hugh C. Baker  
That would cover half an aere  
Were filled with real voters—as they say!  
Never mind, my jolly souls,  
When we meet them at the polls,  
They'll find Buchanan will be sure to win the day.

Let them hoist what rag they choose,  
Mixed with Greys, and Browns, and blues,  
To bamboozle men too sterling to suspect them;  
We'll run up the Union Jack—  
That will show them in a crack  
We have men that see the dodge, and will detect them.

Tho' the day of nomination  
Should have been the termination  
Of a struggle that's a juggle, as they know;  
Yet, as the disappointed batch,  
Persist in coming to the scratch,  
We'll give them rope enough and then—we'll let them go.

Then, Hurrah for I. Buchanan,  
Tho' he's not from Ballyshannon,  
Or whereelse his Irish friends so much admire;  
If "Scotch to the backbone,"  
He's Canadian, too, they own—  
And what can Hamilton, in reasor. more desire.

The Great Western in its might,  
May put forth all its spite  
Against the house that built it, where it stands;  
But tho' buttressed up with slander,  
With envy, and with dander,  
It will find itself defeated on all hands.

After tacking on our B'hoys  
The nickname of "Sepoys,"  
And not a friend in England to defend them!  
How dare they stand up here,  
And in elections interfere,  
Without expecting retribution to attend them.\*

(Brydges had not then a vote, although he took so active a part in this strife.)

If Britain never minces,  
 To vaunt her merchant princes,  
     Why is Canada to be without her boast:  
 That she has one within her realm  
 That is fit to take the helm,  
     And be the first of merchant princes in her host!

Then, Hurrah for I. Buchanan!  
 Though he's not from Ballyshannon,  
     Or where else his Irish friends so much admire;  
 If Scotch to the back-bone,  
 He's Canadian, too, they own—  
     And what can Hamilton in reason more desire!

An anonymous rhyme of 16 verses on "The death of Boulanger, a lay of lang syne," Mr. H. B. Witton of Hamilton tells me, is by that brilliant and kind-hearted woman, Mrs. I. Buchanan. In this, Brydges (my old railway chief, as De Pontibus) gets well roasted.

Come hither, little grandson mine, and sit upon my knee;  
 I'll tell thee a tale of by-gone days, a tale of chivalry;  
 I'll tell thee how De Boulanger, and many a gallant knight,  
 In fray with grim Buchanan were worsted in the fight.

It was the bold Buchanan, he flung his gauntlet down;  
 It was the brave De Boulanger, he raised it with a frown.  
 "Now marshall all thy merry men, thou stubborn Scot," he cried;  
 "In fair affray the strongest arm this quarrel shall decide."

From east to west, from north to south, Buchanan called his men;  
 From street and yard, in ev'ry ward, they came by hundreds then;  
 The Corktown boys, with shout and noise, rushed forth with frantic yell—  
 "Oh, lead us to the fight," they cried, "our blows will surely tell."

It was the brave De Boulanger, he hied him to the Bay,  
 And begged the stern De Pontibus to help him in the fray:  
 Great Western knight, the chief was hight, his crest an iron horse;  
 A thousand followers had he, resistless was his force.

"Now, by Saint Brown of Bothwell," the bold Boulanger said,  
 "Grant me thine aid, De Pontibus, or else I'm but as dead;  
 In court'sey lend thy powerful arm, 'tis courteously besought;  
 With thee to back me, I shall hold the stubborn Scot as naught."

"Mine aid I give, De Boulanger, and eke my merry men;  
 From switch and siding shall they come, full ten by ten times ten.  
 What ho! What ho! my trusty squire, my shield and armour bring,  
 Methinks they're somewhat rusted since we tilted at the ring."

The chieftain donned his armour, and raised his pond'rous shield;  
 It bore three engines proper upon an argent field;  
 On dexter and sinister side, supported by a stoker,  
 Two railway buffers, saltier-wise, and, gules an iron poker.

He grasped his lance, he called his men, he rushed into the fight.  
 His blows fell fast and furiously on many a luckless wight—  
 But all in vain, through street and lane, he charged the opposing foe,  
 Their serried ranks stood firm and fast, and gave them blow for blow.

Each knight that day strove manfully, each yeoman did his best;  
 They fought from far on King Street east, to far on King Street west;  
 The din of war, the clang of arms, for many a mile did reach;  
 'Twas faintly heard in Waterdown, heard loudly on the Beach.

Full many a knightly deed of arms was done, I trow, that day,  
By Stinson, Ford, and stout McGill, by Brown, and eke by Rae;  
McKinstry, of the Mammoth Axe, dealt many a trenchant stroke;  
McKinstry, of the Emerald Isle, full fifty lances broke.

They fought from morn on Wednesday till dark on Thursday night,  
By good Saint Allen of Dundurn, it was an awful sight;  
Fierce was the fray in Hughson Street, to close the hostile ranks;  
'Twas fiercer in the open, near the Gore and British Banks.

At length, at eve on Thursday, all in the setting sun,  
The Herald proclamation made, the bloody fight was won:—  
Unhurt, the bold Buchanan, his destrier bestrode,  
And he cried, "Hurrah for Hamilton! Hurrah for the Southern road!"

They raised the great De Pontibus, they bore him from the field;  
"De Pontibus can die," he said, "he knows not how to yield:—  
Yon Scotsman's lance hath pierced me, pierced me through, from corselet to the back;  
Farewell, farewell, my stokers true, I'm shunting off the track."

They bore him to a siding, an Engine gave a yell;  
The chieftain hailed with flickering smile, the sound that rang his knell.  
"The Scot hath gained the day," he cried, "now, Fortune, do thy worst"—  
His blood flowed fast, he feebly sighed, and then—life's boiler burst!

They raised the great De Boulanger; "I'm fairly sped," he cried;  
"I fall with brave De Pontibus; Oh! lay me by his side;  
Death, after such defeat as mine, is easily endured—  
In the Company that owns my sway, you'll find my life insured."

So fell the bold De Boulanger; so fell the Western Knight;  
They laid their corpses side by side, on Burlington's far height;  
And still the men of Hamilton, from Thames, and Tweed and Shannon,  
Recall the fate of Boulanger, the triumph of BUCHANAN.

The best piece of preserved fun is in the form of four chapters of

Jewish Chronicle (written, Mr. H. B. Witton says) by John Allen, a warehouseman in Buchanan's employ, containing some 7,000 words. It cannot be reproduced here, but Mr. Witton has given me this list identifying most of the characters in it, which is worth preserving:—

Fictitious names and real names—

Allan the Brave—Sir Allan N. McNab.

Isaac—Isaac Buchanan.

The Chief Baker—Hugh C. Baker.

Moor—J. F. Moore (Mayor, 1856).

Codfish, son of Belial, head of the Tribe of the Compact Family—W. P. McLaren.

Chamberlain of the Iron Road—C. J. Brydges.

Done Brown—Adam Brown.

Dodger—Thomas Grey.

Lord Thomas, called Kickero—Sheriff Thomas.

Sad-har, the Scribe—Chas. Sadlier (barrister).

Nehemiah—Nehemiah Ford (ex-Mayor).

Worthing Nothing—Geo. Worthington.

Billingsgate—Wm. L. Billings (M.D.).

Bottledhare—Capt. Harbottle.

Fire-arm—D. C. Gunn.

One named after the place where pale wine is made out of barley—G. W. Burton  
(afterwards Judge.)

Little Rock—Dr. A. Cragie (returning officer).

Wm. son of David—Davidson (of the City Hotel).

Caravansary of Son of David—City Hotel.

Burnt-iron—Dr. McQuesten.

Dodger's Myrmidon—Richard Buscombe (a saloon-keeper).  
One of Old, skilled in hewing stone (also Mason)—Rt. McElroy.  
William, horse milliner to Codfish Family—Wm. Davidson (sadler).  
Lord Richard, son of Achan.  
Lord John, called Pickle Herring.  
Jubal, the Scribe.  
Chamberlain of the House of the Confederacy of Usurers.  
McViper, the mill man.  
Fire-ball.  
Foot-runner.  
The man George.

It is, I think, a fair guess that the writer of this witty screed is he who writes in braid Scottish as "Yilliecrankie."

A "Reformer," writing to the Spectator on 23-11-1857, gives the newspaper lining-up as follows: Against Buchanan, The Globe (Toronto) and Banner (Hamilton); Dumfries Reformer and the London Free Press. For him, the Guelph Herald, Brampton Courier, Berlin Chronicle, Fergus Freeholder, Chatham Planet, Sarnia Tribune, Whitby Chronicle, Dundee Warder, the Toronto Colonist, Leader, and Mirror, the Huron Signal, and the Hamilton Spectator.

#### IV.

### ARRIVALS AND DEPARTURES OF SHIPS

#### **Moose Factory, Hudson Bay, Province of Ontario.**

BY J. B. TYRRELL, M. A., F. R. S. C.

The list of the arrivals and departures of ships at and from Moose Factory here given was carefully prepared from the original records of the Hudson's Bay Company, and shows the arrivals of 142 ships during 130 years, from 1751 to 1880. During the whole of this period one ship at least arrived at Moose Factory every year, not a single year having been missed. This is a remarkable record considering that the ships were usually old sailing vessels which had been bought for the service after they had been used for a long time by others. For eighty years before the first date on this list, and for thirty-five years since the last date on it, ships also sailed from England to Moose Factory, bringing in supplies, and carrying back furs purchased from the Indians.

M. R. means Moose River, A. R. Albany River, and E. M. East Main Post.

A list has already been published in the Report of Progress of the Geological Survey of Canada for 1879-1880, pp. 90-92 c, giving simply the dates of the arrivals and departures of the annual ships at and from Moose Factory between the years 1735 and 1880, but as the list here presented contains so much additional information it is worthy of publication in the Transactions of the Ontario Historical Society, more especially at the present time, when so much attention is being directed to the navigability of Hudson Bay, and the character of the harbours around it.

# SHIPS REPORTS. MOOSE FACTORY, from 1751 to 1880

Date	Arrival.	Where Anchored.	Commanders.	Ships Names.	Departure.	Recd. the Packet for Europe.
1751	August 3rd	M R Roads	Jn. Fowler	Sea Horse	August 10th.	
1752	" 4th	A R do.	Jos. Spurrell	King George	" 21st.	
1753	" 27th	A R do.			September 10th.	
1754	Sept. 2nd	M R Shiphole	Jos. Spurrell	King George	" 15th.	
1755	Augt. 27th.	M R Roads	Ja. Fowler	Sea Horse	" 7th	
1756	" 31st.	A R do.	Josh. Spurrell	do.	" 21st	
1757	" 11th.	" "	Norton			
1758	Sept. 16				Oct. 2	
1759	Sept. 4				September 11th.	
1760	Augt. 26				" 16th.	
1761	" 9				" 5th.	
1762	" "				" 11th.	
1763	Augt. 29		Norton		" 5th.	
1764	News recd.	Ships Arrival at AR }			Augt. 26th.	
1765	September	Augt. 14th	Homer	Prince Rupert	Sept. 8th for AR Moose home Packet.	
		M R Roads	Homer	Sea Horse	went over Land to AR	
1766	August 14th.	A R Roads	do.	do.	August 31st.	
1767	Sept. 3rd.	" "	do.	do.	Sept. 22nd.	
1768	Augt. 19th.	" "	do.	do.	" 5th.	
1769	" 17th.	" "	do.	do.	" 5th.	
1770	" "		Wm. Christopher	do.	" 10th.	
1771	Aug. 24th.	Ship hole	Jno. Richards	Prince Rupert	" 13th.	
1772	Sept. 5				" 11th.	
1773	Augt. 26				" 2nd.	
1774	Sept. 5				" 21st.	
1775	Augt. 23				" 6th.	
1776	" 29				" 17th.	
1777	Sept. 13				" 26th.	
1778	Aug. 22				" 17th.	
1779		" "	" do.	do.	" 22nd.	
1779	Oct.	" "	John Turnor	Severn Sloop	" 27th	
1780	Sept. 4th.	" "	Jno. Richards	Prince Rupert	" 30th.	
1781	Augt. 27th.	" "	" do.	King George	" 20th.	
1782	" 24th.	M R Roads	" do.	Sea Horse	" 20th.	
1783	Sept. 19th.	do.	" do.	" do.	Octr. 2nd.	
1784	" 3rd.		W. Christopher		Sept. 20th.	

1785	Sept. 8th.	Ship hole	W. Christopher	King George	Sept. 22nd.
1786	Augt. 10th.	M R Roads	Tunstall	Prince Rupert	5th.
1787	Augt. 26th.	Ship hole	Richards	Sea Horse	9th.
1788	16th.	M R Roads	W. Christopher	King George	8th.
			Tunstall	Sea Horse	
			Richards	Beaver Sloop	
				for E.M.	
1789	Augt. 16th.	M R Roads	Richards	Sea Horse	Sept. 14th.
1790	Augt. 27th.	Ship hole	J. Richards	King George	Sept. 21st.
1791	Sept. 10th.	" from E.M.	Turnor	Queen Charlotte	Sept. 30th.
1792	Sept. 4th.	"	J. Richards	King George	Sept. 17th.
1793	Augt. 27th.	" from E.M.	J. Richards	Charlotte	20th.
	Sept. 12th.	"	Turnor	King George	12th.
	Augt. 24th.	"	Richards	Nimble Brig	26th.
	Sept. 9th.	" from E.M.	Williamson	King George	23rd.
1794	Aug. 19th.	"	Richards	Q. Charlotte	22nd.
	Sept. 1st.	" from E.M.	Turnor	Prince Wales	30th.
1795	Augt. 28th.	"	H. Hanwell	do.	Octr. 1st.
1796	20th.	"	do.	do.	8th.
1797	28th.	"	do.	do.	14th.
1798	Sept. 6th.	"	do.	do.	16th.
1799	Augt. 30th.	"	J. Richards	King George	21st.
1800	Sept. 9th.	"	J. Turnor	Prince Wales	14th.
1801	Augt. 23rd.	"	H. Hanwell	"	8th.
1802	18th.	"	do.	"	16th.
1803	" 18th.	"	do.	"	21st.
1804	" 6th.	"	do.	"	14th.
1805	" 17th.	"	do.	"	13th.
1806	" 17th.	"	do.	"	25th.
1807	Sept. 5th.	"	John Turnor	King George	Sept. 21st.
1808	Augt. 14th.	"	H. Hanwell	Prince Wales	28th.
1809	" 31st.	M R Road	do.	do.	23rd.
1810	" 9th.	do. do. 10th.	do.	do.	Octr. 10th.
1811	Sept. 25th.	Roads	do.	do.	Sept. 26th.
1812	Augt. 26th.	do.	Thos. Ramsey	Eddystone	September 20th.
1813	Sept. 4th.	do.	do.	do.	
1814	do. 3rd.	do.	John Turnor	do.	
			John Davison	Hadlow	
1815	Augt. 23rd.	Ship Hole MR	John Turnor	do.	Sept. 13th. 1815. Desisted from their attempt to proceed to Europe
	Sept. 14th.	Moose Roads	John Davison	do.	Oct. 10th and arrived at Stratton
					Oct. 20th.

Date	Arrival.	Where Anchored.	Commanders.	Ships Names.	Departure.	Recd. the Packet for Europe.
1816	Sept. 22nd.	Ship Hole MR	Benjamin Bell	Brig Emerald	Octr.	
1817	Augt. 26.	Ship Hole	John Davison	Eddystone	Sept. 14th.	} Retd. in Compy. with the P. of Wales, } Capt. Hanl. and wintered at Charlton.
1818	Augt. 16.	Ship hole	Benj. Bell	Do.		
1819	Signal made					
1820	Aug. 29th.					
1821	" 5th.					
1822	" 26th.					
1823	Aug. 13th.					
1824	Aug. 29th.					
1825	" 15th.					
1826	Augt. 16th.	Ship hole	Benj. Bell	Camden	Sept. 17th.	Sept. 11th.
1827	the Guns heard on the 15th.					
1828	Augt. 30th.	Do.	Do.	Do.	Sept. 9th.	Sept. 9th.
1829	Packet recd. 31st.					
1830	Augt. 11th.	Moose Roads	Do.	Prince Rupert	Sept. 8th.	" 7th.
1831	" 27	" "	H. Hanwell	P. of Wales	" 17th.	" 14th.
1832	" 27	" "	" "	" "	" 16th.	" 16th.
1833	" 28	" "	" "	" "	" 21	
1834	" 3	" "	" "	" from	Sept. 7th.	
				Charlton		
1835	" 27	" "	Benj. Bell	Prince Rupt.	" 25th.	
1836	" 24	" "	H. Hanwell	Prince Wales	" 20th	
1837	Sept. 6th.	" "	" "	" "	" 24	} Sept. 21st. } Mr. G. G. Landed 10 P.M. } Octr. 23rd the Ship ret'd. & } proceeded to Charlton.
1838	July 25	Ship Hole	Henry Baker	" "	Augt. 11th.	
1839				from Charlton		
1840	Augt. 25	Moose Roads	Robt. Royal	Gannymede	Sept. 8th.	} Arrd. at South River 27 } Sept. depart 4th Oct.
1841	" 17th.	" "	" "	Prince Wales	" 7th.	
1842	Sept. 1st.	" "	Henry Baker	" "	" 18th.	
1843	Augt. 29	Inner Ship Hole	Henry Baker	" "	fair at Sea 7 a.m.	} Sept. 14th. } Sept. 10th } fair at 1 p.m. fair at Sea.
1844					Sept. 12th.	
1845					at 1 p.m. fair at Sea.	
1846	Sept. 5th.	do. do. do.	Robt. Royal	" "	Sept. 19th.	} Packet delivd. to Capt. Royal on the } 17th and went on Board the 18th inst. } on the 3 Sept. 3 p. m. } packet delivered 29th
1847	Augt. 21.	Inner	Robt. Royal	Prince Wales	fair out to Sea	
1848	" 12th.	Ship Hole 22	Robt. Royal	do.	7 Sept. 2 p.m.	
1849		Shiphole 12th			Sailed 31 Augt.	

41	Augt. 27th.	Shiphole 30th	Robt. Royal	Prince Wales	Sailed 11 Sept.	packet delivered 28th
1842	Augst. 27th.	Ship Hole	Robt. Royal	Prince Albert	Sept. 11th.	} Packet from home recd.
1843	Sept. 24th.	Do.	Do.	Do.	Octr. 2nd.	} at MR F. Aug. 28th.
					29 min. to 9 a.m.	Sept. 24th.
1844	Augst. 28th.	Do.	Do.	Prince Albert	final dept. outer Anchord. the 3d.	
	$\frac{1}{2}$ p. 1 P.M.				Sept. 10th.	
1845	Sept. 6th.	Ship Hole	Do.	Do.	from outer Ship } Aug. 28th.	
1846	Augt. 10th.	Ship Hole	Do.	Do.	hole } $\frac{1}{2}$ p. 7 a.m.	
	outside 7 9th				Sept. 24th.	} Sept. 6th (Passengers landed
1847	Aug. 26	Ship Hole	Robt. Royal	Do.	outer buoy 8 a.m. } 4 p.m.	the 8th only)
	Outer Buoy 24th				Augt. 31st.	Packet closed
1848	Augt. 13th.	Ship Hole	Do.	Do.	Aug. 10	28 Augt.
	Outer Buoy 10th				Sept. 9th.	Aug. 24. Home Packet closed
1849	Augt. 22d.	Ship Hole	Do.	Do.	Augt. 30th	8 Sept.
					34 P.M.	Aug. 11th. Home packet closed
1850	Augt. 19th.	Ship Hole	Do.	Do.	September 8th.	Augt. 17th. Home packet closed
	Outside 16th				September 6th.	7th Sept.
1851	Augt. 25th.	Ship Hole	Do.	Do.	September 10th.	Home packet closed
1852	Outside 24th	Ship Hole	Do.	Do.	September 5th.	8 Sept.
	outside 15th.				September 17th.	Home packet closed
1853	Augt. 26th.	Ship Hole	Do.	Do.	September 21st.	3 Sept.
	outside 22d.				September 21st.	Home packet closed
1854	September 4th.	Ship Hole	Do.	Prince Arthur	Sept. 3d.	14th & 16th Sept.
	outside 3d.				September 22d.	Home packet closed
1855	August 28th.	Ship Hole	Do.	Do.	August 24th.	Sept. 19th.
	Outside 23d.				Augt. 17th.	Do. 21st Sept.
1856	August 16th.	Outside	Do.	Do.	Augt. 16th.	
	17th.	Ship Hole	Do.	Do.	Augt. 22d.	Home packet closed
1857	August 17th.	Ship Hole	D. D. Wishart	Do.	Sept. 3d.	Home packet closed
	outside 15th.				Sept. 19th.	14th & 16th Sept.
1858	August 18th.	Outside	Do.	Do.	Augt. 24th.	Home packet closed
	21st.	Ship Hole	Do.	Do.	Augt. 17th.	Do. 5 Sept.
1859	September 1st.	Outside	Do.	Do.	Augt. 16th.	do. 5 Sept.
	2d.	Ship Hole	Do.	Do.	August 19th.	do. 4 Sept.
	23d.	Outside	Do.	Do.	September 2d.	do. 13 Sept.
1860	August 23d.	Ship Hole	Do.	Do.	September 9th.	August 23d. do. 7 Sept.

Date	Arrival.	Where Anchored.	Commanders.	Ships Names.	Departure.	Recd. the Packet for Europe.
1861	August 31st. September 1	Outside Ship Hole	D. D. Wishart	Prince Arthur	September 18th.	September 1st. Home packet closed 13 Sept.
1862	August 28th. 31st	Outside Ship Hole		Do.	September 18th.	August 29. do. 16 Sept.
1863	August 28th. September	Outside Ship Hole	J. D. Smythe	Do.	September 26th.	Augt. 30. do. 19 Sept.
1864	Oct. 7	Ship Hole	James Taylor	Schooner "Martin"		Oct. 8. "Prince Arthur" lost on the Island of Mansfield (116 pieces saved) on the night of 13th August, '64.
1865	Sept. 13th.	Outside	John James	Lady Head	Sept. 28.	Sept. 14th.
1866	Aug. 25th.	"	Do.	Do.	" 22.	Aug. 26th.
1867	" 15	" inner hole	" 17th	Do.	" 18.	" 17th.
1868	Aug. 27	" inner hole	" 29th	Do.	Sept. 14.	Aug. 29th.
1869	Sept. 7	"	"	Do.	" 25th.	Sept. 8th.
1870	August 23rd.	Outside		Do.	" 11th.	August 24th. Packet sent on board 9th. Sept.
1871	August 27th.	Outside, inner hole	John James	Do.	" 15th.	August 28th. Packet sent on board 12th Sept.
1872	August 20	"	Do.	Do.	" 9th.	" 22nd. " 6 Sept.
1873	" 21 Oct. 23 off	Ship hole 22nd Outer Buoy	G. B. Galbraith	Do.	" 20th.	" 22nd. " 16 Sept.
1874	July 15	Ship Hole	G. B. Galbraith	Do.	Sept. 10th.	Oct. 28. Left for Charlton Island. Returned from Charlton.
1874	Augt. 21	Outside	Henry Bishop	Ocean Nymph		Left for England. Bishop, Commander.
1875	Sept. 10 " 14	Outside Inside	H. Bishop	Lady Head	Sept. 12th.	Galbraith in Command, Bishop transfd.
1876	Augt. 30	Outside	H. Bishop		26th Sept.	Packet on board Lady Head 9th Sept.
1877	Sept. 3 Augt. 19 " 23	Inside Outside Inside	do.	Prince of Wales	20 September	11th Sept. Packet on board 24th September
1878	August 11th " 13	Outside Inside	H. Bishop	do.	22nd Augt.	1st Sept. Packet on board 17th September.
1879	August 17th " 23d.	Outside Inside	H. Bishop	Prince of Wales	4th September	22nd Augt.
1880	August 23d. " 24th	Outside Inside.	H. Bishop	Prince of Wales	9 Sept.	13th August. Packet on board 3rd Sept.
					10th September	20th August.
						24th August. Packet on board 10th Sept.

## V.

### CAPTAIN ROBERT HERIOTT BARCLAY, R. N.

BY MISS A. BLANCHE BURT, B. A., PARIS, ONT.

In the east windows of Bristol Cathedral are early and good examples of the arms of the great Barons Berkeley, Clare and Warren. John, second son of the first Earl of Berkeley, married the heiress of Gartly and was invested in Tollie, about 1050, by that most interesting historical personage Malcolm Canmore, who was ever ready to welcome into Scotland those who found their way there during those very troublous times. Towie Castle, the ruin of which is standing today, was built by Sir Alexander, second son of said John (1081-1136), and the family was henceforth known as the Berkeleys de Tollie—later Barelay de Tollie; also as the "Black Barelays," from the fact that as a family they had dark hair and eyes and also in contradistinction to the Ury Barelays or "The Red Barelays," descended from another branch of the same family.

The subject of this sketch, Captain Robert Heriott Barelay, R. N., was the twenty-first in direct descent from this John, second son of the first Earl of Berkeley. He was born in 1785 at the Manse, King's Kettle, in the Kingdom of Fife. His father was the Rev. Peter Barelay, D. D., who describes himself as a cadet of the family Barelay of Towie and his mother, Margaret Duddingstone, a noted Fife beauty, a daughter of James Duddingstone, Esquire, of St. Ford, Elie, Fife, and sister of Admiral William Duddingstone. An old woman told a niece of Captain Barelay that when a little girl she and her companions went to church solely for the purpose of looking at Margaret Duddingstone's beautiful face. Robert was the second child and was named for one of his father's parishioners and intimate friends, Heriott of Ramornie. With his brothers, he went to a school in Kettle taught by Mr. Strachan, later Bishop Strachan, so well known in connection with education and the early Church in Canada. Of his very brief school days, one story is recorded as follows: Robert, as ringleader of the school-boys, one morning locked out the school-master, Mr. Strachan, and through the key-hole demanded a holiday. Whether the request was granted is not recorded, but by the same school-master he is referred to many years afterwards in the following terms: "Commodore Robert Heriott Barelay, afterwards so unfortunate on Lake Erie, from causes over which he had no control, was another of my pupils. He was a youth of the brightest promise, and often have I said in my heart that he possessed qualities which fitted him to be another Nelson, had the way opened for such a consummation."

His school days at Kettle were indeed brief, for he was only twelve when he started off for sea. The choice of the Navy as a profession for him by his parents was probably induced by the example and influence of his mother's brother, Admiral William Duddingstone. It was said that his mother never got over parting from her son Robert, the first break in the family.

It was May 19th, 1798, when he left Kettle Manse to join the "Anson," His Majesty's Frigate of 44 guns, Captain Durham. Poor little man, he went away alone on the coach, and at the first inn at which they stopped he was crying so bitterly that the innkeeper's wife said to him, "My little man, why are you crying so much?" "Because," he said, "I am on my way to sea and will never see father, mother, brothers and sisters again." She took him into her arms, and in a motherly way cheered and comforted him. Many years after, when he came home, he went to the same inn and inquired whether the innkeeper's wife was still alive. He said to her, "Don't you remember me?" "No." "Well, I am the boy that cried so much and you comforted me"; and he then and there gave her the present of a silk dress.

On May 23rd he reached Greenock and went on board the "Polly" Tender, bound to Plymouth, which did not reach its destination till the 14th of June. There he was taken on board the Cambridge receiving ship. Just at this point, in an old family register from which the information so far is taken, occurs in brackets, but without explanation, the two little words, "ill used." Let us hope that if there was not a motherly innkeeper's wife, at least some kindly old tar took pity on the lad. Small for his twelve years, but neatly formed, plump and rosy-checked, with large dark eyes surmounted by black eyebrows and a shock of black hair, with a slight inclination to curl, he must have been a noticeable and appealing little figure. But there was little time and less inclination for sentiment in the navy at that time, for men's minds were taken up with what they considered much greater issues.

The ill-treatment could not have lasted long, as on June 30th he went on board the "Foudroyant," 80 guns, to join the fleet off Brest and fall in with the "Anson." However, they missed the "Anson," and Barelay was received on board the "Royal George," the Admiralty Ship, until the "Anson" should heave in sight at Bridgeport. On the 25th, the "Royal George," having to go into port, he was put on board the "Cambrian," and in a few days, having fallen in with the "Anson," he came again to Plymouth on August 1st, the day when Nelson gained what is often considered his master-piece, the Battle of the Nile.

Nearly two and a half months had elapsed since he left home till at last he joined his ship. What an experience these few weeks must have been for the boy who, as far as we know, had never been away from home before and had lived a sheltered life with brothers, sisters and parents.

In March, 1801, having served as a seaman with midshipman rank with approbation, he was rated midshipman in the "Anson" before Captain Durham left that ship to take command of the "Endymion," Captain Errars succeeding his command. In March, 1802, preliminaries of Peace being signed, he sailed from Malta, between which and Sicily the "Anson" had been cruising for some time, to Smyrna, where he arrived in April.

On the renewal of the war in 1802, Nelson was appointed to the Mediterranean command, and began his remarkable blockade of the French fleet under Villeneuve at Toulon. Mrs. Theodore Barclay, of Edinburgh, has the original portrait of Captain Barclay, the silver combination knife and fork made for his use after the loss of his arm, the silver (incomplete) which was given him for his service on Lake Erie, and has also the original of the following letter written during this time to the Rev. Peter Barclay, evidently in answer to his asking for his son's advancement in the navy:

Victory, Aug. 9th, 1804.

Sir,

I have received your letter of April 30th respecting your son on board the "Anson." He has only just served his time and there are many in the Mds. who have served 8 or 9 years as Mds.; however, your son is in a frigate, where if an opportunity offers and he distinguishes himself by any gallant exploit, he will certainly be promoted, for services rendered the country are first placed on my list and are promoted before any interest, therefore he has his fair chance of promoting himself. Unless the foreign fleet comes to sea, I have but little prospect of promotion for the numerous young men in this fleet, but if they do, and success attends our endeavours, there will, I daresay, be room for promoting many, when if I can with propriety, your son shall not be forgot. I am, Sir, your very obedt. Servt.

Nelson & Bronte.

The foreign fleet did not come to sea till the end of March, 1805; in the meantime, however, at the beginning of the same month, Barclay was appointed Lieutenant to the "Swiftsure," 74 guns, in the handsomest manner by Lord Nelson, and at his Lordship's personal application at the Admiralty, was confirmed and got his commission October 14th, 1805, for what services rendered his country we do not know.

At the end of March, 1805, Admiral Villeneuve finally escaped his blockade and then began that game of hide-and-seek on the Atlantic Ocean which finally ended at Trafalgar, Oct. 21st, 1805.

It seems strange that the next entry in Rev. P. Barclay's Register of his son is dated 1807, and no mention is made of Trafalgar. However, in various histories he is referred to as "one of Nelson's veterans," a "Nelson hero," as having been with Nelson at Trafalgar and as having lost his arm there. The last statement is incorrect, as it was a few years later that this accident occurred. However, there is no reason to believe that the former ones are also. The "Swiftsure" was in Collingwood's column at Trafalgar, and there is no doubt that the recently made Lieutenant of twenty was with his ship and had his part in England's greatest victory.

Two years later, Sept. 24th, Lieutenant Barclay returned in the "Swiftsure" to Plymouth and arrived on Oct. 13th at Kettle Manse, which he had left ten years before as a small boy of twelve. We have no details of this visit, but we can imagine partly what it would be like—a mixture of happiness and sadness. It was returning home, but with the exception of his father, it must have been almost like going among strangers. His mother, who had felt so keenly parting with her son, had died in 1801, and in 1803 his father had married again. The two brothers, nearest his age and who had probably been his chief playmates.

were now far away. James, the elder brother, had been appointed Assistant Surgeon to Bengal in 1806; Peter, the brother next him, was now a Lieutenant out in India, and the small brothers and sisters whom he remembered must have changed beyond all recognition. However, there must have been real happiness in it also; the parent's pride in the handsome, brave young Lieutenant of twenty-two, and what a hero he must have been to the numerous small brothers and sisters, some of whom he had never seen before.

What a flutter in the maidenly hearts of the neighborhood he must have caused and how novel and new and delightful it must have been to the youth who had been at sea almost continuously for ten years. And one maiden's heart beat faster than the others and caused the young Lieutenant's heart to beat in return, and this was Agnes Cossar's, of Cupar, a neighboring town of Fife.

It must have been with rather unwilling steps that Lieutenant Barclay left his home two months later, to join the "Diana" Frigate of 38 guns under Captain Grant. In April of the following year the accident which has been attributed to Trafalgar occurred; he lost his left arm by a swivel shot in an unsuccessful attack on a Convoy in Moir Montier Roads. Some months after this loss he was granted a pension of 5/ a day.

On March 12th, 1809, he sailed to Brazil, taking out Admiral de Courcey to supersede Sir Sidney Smith, and in the autumn of the same year nearly met death by drowning. On Sept. 19th, while on duty, he was upset from a boat going from the "Diana" to Ramsgate; he clung to the boat and "by the kind Providence of God was missed from Ramsgate and picked up, when almost totally spent, by another boat sent out to look for him. The sea was very boisterous."

On December 9th he again visited Kettle Manse previous to his going out to Halifax with L. Mulgrave's commendation to Sir John Warren. This was probably a flying visit to say good-bye before going so far away.

On the first of March, 1813, he was appointed Commander by Sir John Warren and sent Senior Officer to Lake Ontario till an older officer should arrive from the Admiralty. This officer arrived very soon in the person of Sir James Lucas Yeo, and Captain Barclay left to take charge of His Majesty's Fleet on Lake Erie, an appointment which had been refused by Captain Mulcaster on account of the difficulties which the position presented. The wretched condition of His Majesty's Fleet on Lake Erie is most graphically described by James.

Of the summer of 1813 and the events which preceded the Battle of Lake Erie and of the battle itself, we have very full accounts by various writers, and in all these, both American and Canadian, Captain Barclay's bravery and efficiency are referred to in terms such as noble, gallant and brave. Richardson and James (his style would be sufficient to show it) are undoubtedly biased in favor of the British, and yet neither eulogizes Captain Barclay more than Roosevelt in his account of the action in his Naval War of 1812, which as Mr. Casselman remarks in a footnote to his edition of Richardson, is the most carefully prepared and fairest

account of the action: "Both Commanders and their crews were equally brave and about equally skilful; Perry's line, however, was not so well formed as Barclay's, the Niagara not coming to close action until Perry took command. There could be no other ending to the battle. Victory must rest with the stronger force, everything else being practically equal." Richardson, in summing up the battle, writes in his quaint way: "All that courage and perseverance could effect was done; but against the decree of Providence, who may successfully oppose himself?"

The love of the intimate, the personal and the dramatic is inherent, while the love of the statistical is acquired by most of us. Such being the case, by far the most interesting account of the battle and the events leading up to it is given by Mr. C. H. J. Snider in his new book, "In the Wake of the Eighteen Twelvies," in the chapter entitled "The Boy Commander and the Widow." It is told vividly, dramatically, yet truthfully. Mr. Snider has certainly woven in every picturesque detail which I have noticed in any of the authorities. The pathetic Presqu'Isle episode, with its far-reaching results, about which his chapter is woven, is historically correct and is probably based on the following taken from the "Mail and Empire" of September 20th, 1913.

"While the Put In Bay celebration of both peace and war was being held recently, the Ontario Historical Society was in session at Chatham. The society closed their annual gathering by a steamboat trip to Amherstburg. On the Detroit River they met a vessel said to be the only survivor of Commander Perry's fleet, being towed up the river from Put In Bay. This Dreadnought of 1813 is a small lake schooner which might have passed unnoticed but for the flotilla of motor yachts, gaily strung with pennants, which accompanied her. The incident served to recall afresh the naval engagement so disastrous to Captain Barclay, the British Commander. His gallantry both in peace and war was remembered. He lost an arm fighting under Nelson at Trafalgar. With his other arm disabled he was taken prisoner, though he fought with equal bravery at the battle of Lake Erie. But the whole of the disasters which overtook the small British force, naval and military, in the West, according to Mrs. Amelia Harris, daughter of Colonel Ryerse, of Port Ryerse, were attributable to Captain Barclay's gallantry (with the accent on the second syllable) in consenting to transport in his vessel the pretty widow of an officer anxious to reach York, from Amherstburg to Port Ryerse, and remaining over for a dinner at the hospitable home of Dr. Thomas Rolph, father of the better known and versatile Dr. John Rolph. Barclay had been maintaining a blockade of the American fleet at Presqu'Isle, for the latter could not get over the bar of the harbour without unshipping guns, and this could not be done so long as Barclay stood nearby to attack them. His absence at the time referred to gave the American mée the opportunity they had watched for and they slipped over the bar in safety. At Amherstburg the Provincial historian saw the spot where Barclay embarked his meager naval force, deficient in seamen, ammunition and provisions."

Truly might Mr. Snider say in reference to Barclay and Perry: "The one was heroic and very human, the other was heroic and very theatrical."

The chapter in Mr. Snider's book closes with the end of the battle, so I shall supplement it with Captain Barclay's letter written to Sir James Yeo, two days after, which, as Auchinleck says, gives a truthful account of the battle and is a model of its kind.

H. M.'s late ship Detroit,  
Put-in-bay,  
Lake Erie, Sept. 12th, 1813.

Sir,

The last letter I had the honor of writing to you, dated the 6th instant, I informed you that unless certain intimation was received of more seamen being on their way to Amherstburg, I should be obliged to sail with the squadron, deplorably manned as it was, to fight the enemy (who blockaded the port) to enable us to get supplies of provisions and stores of every description. So perfectly destitute of provisions was the port that there was not a day's flour in store, and the crews of the squadron under my command were on half allowance of many things, and when that was done there was no more. Such were the motives which induced Major-General Procter (whom by your instructions I was directed to consult, and whose wishes I was enjoined to execute, as far as related to the good of the country) to concur in the necessity of a battle being risked, under the many disadvantages which I laboured; and it now remains to me, the most melancholy task, to relate to you the unfortunate issue of the battle, as well as the many untoward circumstances which led to that event.

No intelligence of seamen having arrived, I sailed on the 9th instant, fully expecting to meet the enemy next morning, as they had been seen among the islands; nor was I mistaken. Some time after daylight they were seen in motion in Put-in-Bay, the wind then south-west, and light, giving us the weather-gage. I bore up for them, in hopes of bringing them to action among the islands, but that intention was soon frustrated by the wind suddenly shifting to the south-west, which brought the enemy directly to windward. The line was formed according to a given plan, so that each ship might be supported against the superior force of the two brigs opposed to them. About 10 the enemy cleared the islands, and immediately bore up, under sail, in a line a-breast, each brig being also supported by the small vessels. At a quarter before 12, I commenced the action, by firing a few long guns; about a quarter past, the American Commodore, also supported by two schooners, one carrying four long 12-pounders, the other a long 32 and 24 pounder, came to close action with the Detroit; the other brig of the enemy apparently destined to engage the Queen Charlotte, supported in like manner by two schooners, kept so far to the windward as to render the Queen Charlotte's 24-pounder carronades useless, while she was, with the Lady Prevost, exposed to the heavy and destructive fire of the Caledonia, and four other schooners, armed with long and heavy guns, like those I have already described.

Too soon, alas! was I deprived of the service of the noble and intrepid Captain Finnis, who soon after the commencement of the action, fell; and with him fell my greatest support. Soon after Lieutenant Stokes, of the Queen Charlotte, was struck senseless by a splinter, which deprived the country of his services at this very critical period.

As I perceived the Detroit had enough to contend with, without the prospect of a fresh brig; Provincial-Lieutenant Irvine, who then had charge of the Queen Charlotte, behaved with great courage; but his experience was much too limited to supply the place of such an officer as Captain Finnis, hence she proved of far less assistance than I expected.

The action continued with great fury until half-past 2, when I perceived my opponent drop a-stern, and a boat passing from him to the Niagara (which vessel was at this time perfectly fresh); the American Commodore, seeing that as yet the day was against him, his vessel having struck soon after he left her, and also the very defenceless state of the Detroit, which ship was now a perfect wreck, principally from the raking fire of the gun-boats, and also that the Queen Charlotte was in such a position that I could receive very little assistance from her, and the Lady Prevost being at this time too far to leeward, from her rudder being injured, made a noble, and, alas! too successful an effort to regain it, for he bore up, and, supported by his small vessels, passed within pistol shot, and took a raking position on our bow; nor could I prevent it, as the unfortunate situation of the Queen Charlotte prevented us from wearing. In attempting it we fell on board her. My gallant First-Lieutenant Garland was now mortally wounded, and myself severely, that I was obliged to quit the deck. Manned as the squadron was, with not more than 50 British seamen, the rest a mixed crew of Canadians and soldiers, and who were totally unacquainted with such service, rendered the loss of officers more sensibly felt, and never in any action was the loss more severe; every officer commanding vessels, and their seconds, were either killed, or wounded so severely, as to be unable to keep the deck.

Lieutenant Buchan, in the Lady Prevost, behaved most nobly, and did everything that a brave and experienced officer could do, in a vessel armed with 12-pound carronades against vessels carrying long guns. I regret to state that he was severely wounded. Lieutenant Signal, of the Dover, commanding the Hunter, displayed the greatest intrepidity; but his guns being small, 2, 4 and 6-pounders, he could be of much less service than he wished.

Every officer in the Detroit behaved in the most exemplary manner. Lieutenant Inglis shewed such calm intrepidity, that I was fully convinced that on leaving the deck, I left the ship in excellent hands and for an account of the battle after that, I refer you to his letter, which he wrote me for your information.

Mr. Hoffmeister, purser of the Detroit, nobly volunteered his services on deck, and behaved in a manner that reflects the highest honor on him. I regret to add that he is very severely wounded in the knee.

Provincial-Lieutenant Purvis, and the military officers, Lieutenant Gordon, of the Royal Newfoundland Rangers, and O'Keefe, of the 41st regiment, behaved in a manner which excited my warmest admiration. The few British seamen I had behaved with their usual intrepidity; and, as long as I was on deck, the troops behaved with a calmness and courage worthy of a more fortunate issue to their exertions.

The weather-gage gave the enemy a prodigious advantage, as it enabled them not only to choose their position but their distance also, which they did in such a manner as to prevent the carronades of the Queen Charlotte and Lady Prevost from having much effect; while their guns did great execution, particularly against the Queen Charlotte.

Captain Perry has behaved in a most humane and attentive manner, not only to myself and officers, but to all the wounded.

I trust, that although unsuccessful, you will approve of the motives that induced me to sail under so many disadvantages, and that it may be hereafter proved that, under such circumstances, the honor of His Majesty's flag has not been tarnished.

I enclose the list of killed and wounded.

I have the honor to be, etc.,

R. H. Barclay, Commander,  
and late senior officer.

Lieutenant Inglis' letter to Captain Barclay gives an account of the termination of the battle, and is as follows:

H. M. late ship Detroit,

Sept. 10th, 1813.

Sir,

I have the honor to transmit you an account of the termination of the late unfortunate battle with the enemy's squadron.

On coming on the quarter-deck, after your being wounded, the enemy's second brig, at that time on our weather-beam, shortly afterwards took a position on our weather-bow, to rake us; to prevent which, in attempting to wear, to get our star-board-broadside to bear upon her, a number of the guns of the larboard-broadside being at this time disabled, fell on board the Queen Charlotte, at this time running up to leeward of us. In this situation the two ships remained for some time.

As soon as we got clear of her, I ordered the Queen Charlotte to shoot ahead of us, if possible, and attempted to back our fore-top sails, to get a-stern; but the ship lying completely unmanageable, every brace cut away, the mizen-topmast and gaff down, all the other masts badly wounded, not a stay left forward, hull shattered very much, a number of guns disabled, and the enemy's squadron raking both ships, a-head and a-stern, none of our own in a position to support us, I was under the painful necessity of answering the enemy, to say we had struck, the Queen Charlotte having previously done so.

I have the honor to be, &c.,

George Inglis.

I shall quote from a chapter in Richardson, called "Prisoners of War," which gives an intimate glimpse of Captain Barclay after the battle: "A few only, desirous of taking the Sandusky route across the lake, were embarked in the Ariel gun-boat, and conveyed to Put-In-Bay island, where the shattered fleets were then lying. Here indeed was to be seen evidence of a most sanguinary conflict, especially in Captain Barclay's ship. Every mast of this latter had been carried away—more than half her long guns had been dismounted and the bulwarks were in fragments, while it was impossible to place a hand upon that broadside which had been exposed to the enemy's fire, without covering some portion of a wound, either from grape, round, cannister or chain-shot. The decks of all were moreover filled with wounded, and, on being introduced into Captain Barclay's cabin, we found that gallant officer in bed, presenting a most helpless picture of mutilation.

Pain and disappointment were on his brow, and the ruddy hue of health for which he had ever been remarkable had deserted him. In short, of his former self there then seemed to be but little left besides his untainted honor. The scene altogether was one of a most melancholy and impressive character."

Well might Tecumseh say, "Our fleet has gone out; we know they have fought; we have heard the great guns; but know nothing of what has happened to our father with one arm."

It was shortly after this that Captain Barclay wrote home to his fiancée, Agnes Cossar, telling her of his misfortunes and battered condition, and offering to release her from her engagement. She replied that if there were enough of him left to contain his soul, she would marry him. So soon they were married, and according to family tradition and in fairy-tale language, lived happily ever afterwards.

On the 16th of September of the following year, Captain Barclay and his surviving officers and men were tried by Court Martial on board the *Gladiator* at Portsmouth for the loss of the Lake Erie Flotilla. The following is the sentence of Court Martial with Auelinleck's remarks on it:

"That the capture of His Majesty's late squadron was caused by the very defective means Captain Barclay possessed to equip them on Lake Erie; the want of a sufficient number of able seamen, whom he had repeatedly and earnestly requested of Sir James Yeo to be sent to him; the very great superiority of the enemy to the British squadron; and the unfortunate early fall of the superior officers in the action. That it appeared that the greatest exertions had been made by Captain Barclay, in equipping and getting into order the vessels under his command; that he was fully justified, under the existing circumstances, in bringing the enemy to action; that the judgment and gallantry of Captain Barclay in taking his squadron into action, and during the contest, were highly conspicuous, and entitled him to the highest praise; that the whole of the other officers of His Majesty's late squadron conducted themselves in the most gallant manner; and did adjudge the said Captain Robert Heriott Barclay, his surviving officers and men to be most fully and honorably acquitted.—Rear-Admiral Foote, President."

Captain Barclay's appearance at the Court Martial is represented to have drawn tears from the spectators, so mutilated was he. One arm he had lost previously, the second so badly wounded by grapeshot that it required artificial support; besides this he had received several flesh body wounds. It will scarcely be believed that, notwithstanding the flattering sentence of the Court and the severity of his wounds, Captain Barclay was only promoted to post rank in 1824, or nearly eleven years after the action.

The following letter, written to "The Scottish American" of October 16th, 1839, by Mr. William Wood, of New York, a relative of Captain Barclay's, gives an interesting side-light both on the battle and Captain Barclay:

"The Scottish American,  
Oct. 16th/39.

In your issue of yesterday is an article on the 'Lake Erie Squadron,' by Mr. James Bartlett, which particularly interested me because, by a curious coincidence, at lunch yesterday I had been telling to my grand-daughter, Mrs. G. Perry, the story of my relative, Captain Barclay, in reference to the letter which he wrote (after losing his arm at the battle of Lake Erie) to the lady to whom he was engaged, and which is correctly given in the article referred to. I think, however, that the theory that the Americans had struck their flag and were beaten is a mistake.

Perry's flagship, the *Lawrence*, was riddled with shot, its rigging destroyed, and he determined to haul down his flag from the *Lawrence* and carry it to the Niagara, which had kept outside the battle and was unharmed. He took a small boat and had himself rowed on board the Niagara, and on the way there was a perfect shower of shot from Barclay's vessel, but the little boat escaped harm. Perry hoisted his flag on board the Niagara and then fairly won the battle. I never heard any doubt expressed on the subject until I read the somewhat mythical account in your yesterday's paper, and I think I should have heard of it had there been any doubt on the subject, because besides being a relative, Captain Barclay was an intimate personal friend of my uncle Captain Wood, H. E. I. C. S. Madras Establishment, and when a boy, I have seen both gentlemen swimming in the deep waters outside of Elie Harbour in Fife: Captain Barclay with one arm, the other cut off just below the shoulder.

Captain Barclay's mother was a Miss Duddingstone, the sister of Admiral William Duddingstone, so that her son was quite entitled in those days of patronage and nepotism to a midshipman ship through his uncle, Admiral Duddingstone, without the intervention of Lord Nelson."

The rest of the letter, which is written by a cousin of Miss Barclay, William Wood, New York, is about the Duddingstones, of St. Ford, and their family pride, etc.

The last entry in the family register about Captain Barclay is dated April, 1824, when he was appointed to command the "Infernal Bomb" against Algiers, and was posted on September 14th, on his return.

The latter part of Captain Barclay's life, from the time of his marriage, not very long after the battle of Lake Erie, was spent, when he was off duty and later during his retirement, in Edinburgh, in a house in Saxe-Cobourg Place. The glimpses which we have of it are pleasant. Eight children were born to him, only two of whom, daughters, have left descendants. The eldest daughter, Margaret Ann, who later became the wife of Benjamin Wickham, R. N., was very devoted to her father, and on the streets of Edinburgh they were known as the one-armed Captain with the beautiful daughter. His youngest daughter, Agnes Heriott, married Hamilton Blair, Esq., and many years ago visited cousins in this country, the Ballingalls of Towie, near Paris, and Stratheaden, near Ayr.

Miss Elizabeth Barclay, a niece of Captain Barclay, remembers as a very little girl visiting his house in Saxe-Cobourg Place.

It was from Saxe-Cobourg Place that he was carried to his last resting place in historic Greyfriars Churchyard and buried beside two of his children. On the tombstone which he had erected to their memory was placed the following simple inscription:

#### Also In Memory Of

Captain Robert Heriott Barclay, R. N., who died the 8th of May, 1837, aged 52 years.

Surmounting the tomb is the Barclay de Tollie Coat of Arms with the family motto "Aut agere aut mori," which seems to have had such a peculiarly appropriate significance in the lives of so many of its members.









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